

BOARD OF ZONING APPEAL FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

December 3, 2009
7:00 p.m. in Senior Center
806 Massachusetts Avenue Cambridge,
Massachusetts 02139

Constantine Alexander, Chair
Tim Hughes, Acting Chair
Brendan Sullivan, Member
Tad Heuer, Member
Mahmood Firouzbakht, Member
Slater Anderson, Member
Thomas Scott, Member
Douglas Myers, Member

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P R O C E E D I N G S

(7:00 P.M.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The meeting will be called to order. And as is our custom, we're going to start with the continued cases. And we'll call first case No. 9852, 288 Norfolk Street.

Is there anyone here on that matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair sees no one here. And we're in receipt of a letter. There should be a letter in here. Yes, a letter from Adam Brailard, B-r-a-i-l-l-a-r-d who is counsel for the petitioner. He is requesting that we continue the hearing tonight. He does make some comments about their meeting with the

Planning Board, but that's not relevant for right now.

So when do we continue this case to?

SEAN O'GRADY: January 14th.

CONSTANTINE ALEXANDER: January 14th?

DOUGLAS MYERS: I'm a member of the panel on that case. That date is under a cloud as far as I'm concerned. I just can't say -- there's a reasonable possibility that I may not be able to attend although I might be able to attend.

CONSTANTINE ALEXANDER: Let's pick another date.

SEAN O'GRADY: Is the 28th okay?

DOUGLAS MYERS: The entire month of January up until the beginning of February, it's under this cloud. It really doesn't seem that I would be essential.

CONSTANTINE ALEXANDER: How about the first session in February?

SEAN O'GRADY: February 25th.

CONSTANTINE ALEXANDER: February
25th?

SEAN O'GRADY: Yes.

DOUGLAS MYERS: Absolutely fine for
me.

SEAN O'GRADY: I'm sorry, February
11th?

DOUGLAS MYERS: Also fine.

CONSTANTINE ALEXANDER: Brendan?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Who else is
on that case, Tom?

SLATER ANDERSON: Me, too.

CONSTANTINE ALEXANDER: Yes, you're
there, too.

SEAN O'GRADY: The call: Brendan,
Slater, Gus, Tom, Doug.

CONSTANTINE ALEXANDER: And
everybody is going?

The Chair moves that this case be

continued until seven p.m. on February 11th on the condition that the petitioner -- I think they already have signed a waiver of notice.

On the further condition that the petitioner modify the sign to indicate the new date of the meeting.

All those in favor, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Sullivan, Anderson, Scott, Heuer.)

(A discussion was held
off the record.)

(7:05 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9834, 59 Shepard Street.

Is there anyone here on that matter?

ATTORNEY MARTIN COHEN: Yes.

CONSTANTINE ALEXANDER: You have to give your name and address for the record.

ATTORNEY MARTIN COHEN: I'm Marty Cohen, Anderson and Kreiger for AT&T.

Gentlemen, I think you should have a letter and if not, I do have copies.

CONSTANTINE ALEXANDER: We have a letter.

ATTORNEY MARTIN COHEN: As you know, this was a subject of a hearing in late September, and at the Board's urging we looked for an alternate candidate, which we

found, and we submitted an application for Gilbert Hall which is adjacent to the Hilles Library. It hasn't been scheduled for a hearing yet. We want to keep Hilles on the back burner while we pursue Gilbert. That's the request for the continuance.

CONSTANTINE ALEXANDER: What date next is available?

SEAN O'GRADY: January 14th again.

CONSTANTINE ALEXANDER: We need to have Brendan the 14th.

BRENDAN SULLIVAN: Not available.

SEAN O'GRADY: Brendan's not available. Okay.

CONSTANTINE ALEXANDER: What's the next one after that?

SEAN O'GRADY: After the 14th is the 28th.

CONSTANTINE ALEXANDER: Of January?

SEAN O'GRADY: January 28th.

BRENDAN SULLIVAN: I'm here.

TAD HEUER: Is the case going to be heard?

SEAN O'GRADY: Yes, this is just a continuance.

TAD HEUER: I know, that's what I'm asking.

SEAN O'GRADY: Do you want the 14th?

ATTORNEY MARTIN COHEN: Yes, I mean if we can do Gilbert for the 14th, then, you know, and get a reading from the Board then we would have some sense.

SEAN O'GRADY: It doesn't matter.

TAD HEUER: It doesn't make sense to continue and have them hear the new case that they want.

SEAN O'GRADY: I picked the 14th because that's the same night that the real case is coming.

TAD HEUER: That's my question.

SEAN O'GRADY: Right. If it's a week late, we can stay where we are.

ATTORNEY MARTIN COHEN: Okay, so the date will be --

CONSTANTINE ALEXANDER: We're just going to confirm that. Brendan, you're available on the 28th of January?

BRENDAN SULLIVAN: Yes.

CONSTANTINE ALEXANDER: Tom?

THOMAS SCOTT: Yes.

CONSTANTINE ALEXANDER: Tim?

TIM HUGHES: Yes.

CONSTANTINE ALEXANDER: Myself, I'm available. Tad?

SEAN O'GRADY: We go T-A-D for Tad. Because T.H. was taken when you got here.

CONSTANTINE ALEXANDER: Are you available?

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven p.m. on January 28th on the condition that a waiver of notice having been in the file.

On the further condition that the petitioner take the sign, modify the sign to show a new hearing date.

ATTORNEY MARTIN COHEN: Okay. I have a question regarding that. Harvard reported to me, and it may have been because of the rain and wind, we lost the sign. How do I go about getting a new one?

SEAN O'GRADY: Come see us.

ATTORNEY MARTIN COHEN: I may be coming to see you tomorrow anyway.

SEAN O'GRADY: I won't be there.

ATTORNEY MARTIN COHEN: Okay. Then just ask for somebody?

BRENDAN SULLIVAN: The sign won't have to be posted until the 14 days.

ATTORNEY MARTIN COHEN: 14 days before. So as long as we have it up by the 14th, but I should request it anyway.

CONSTANTINE ALEXANDER: You can get a new sign from the city.

ATTORNEY MARTIN COHEN: From ISD
then?

BRENDAN SULLIVAN: Maria is back on
Tuesday. After Tuesday would be the time to
do it, to request it.

ATTORNEY MARTIN COHEN: Thanks,
gentlemen.

SEAN O'GRADY: Thank you.

CONSTANTINE ALEXANDER: All those
in favor of voting to continuing the case
until January 28th on the condition that the
petitioner's sign reflect the new date of the
meeting, all those in favor, say "Aye."

(Aye.)

(Alexander, Hughes, Sullivan,
Scott, Heuer.)

(A discussion was held
off the record.)

(7:10 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: Chair will call case No. 9793, 15 Crescent Street.

Is there anyone here on that matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

I have a letter requesting a continuance. Sean, I thought they were going to move for a withdrawal?

SEAN O'GRADY: They came down today and there wasn't enough marketingness in their application.

CONSTANTINE ALEXANDER: They're entitled.

The Chair is in receipt of a letter addressed to Mr. O'Grady dated December 3rd.

"Please find the attached request for continuance for 15 Crescent Road as discussed earlier. Please let me know if you require additional information." And attached to that is a letter from Andrew Todd Marcus, the person who signed the cover letter as well, apparently the architect for the project. And he's addressed again to the Board this time, and it says, "On behalf of our clients Jeffrey and Elizabeth Peoples, P-e-o-p-l-e-s, owners of 15 Crescent Street, we hereby request a continuance from the Board Zoning Appeals case No. 9739 (sic)."

TAD HEUER: You mean 9793.

CONSTANTINE ALEXANDER: It says 9739 in the letter.

TAD HEUER: Sic.

CONSTANTINE ALEXANDER: Let the record show it's 9793.

What date do we have available, Sean?

SEAN O'GRADY: I'm sorry, January

28th.

CONSTANTINE ALEXANDER: January 28th. Brendan, you're available the 28th obviously? Slater?

SLATER ANDERSON: Yes.

CONSTANTINE ALEXANDER: Tad?

TAD HEUER: Yes.

CONSTANTINE ALEXANDER: Tim, you available on the 28th?

TIM HUGHES: Yes.

CONSTANTINE ALEXANDER: The Chair moves that this case be continued until seven p.m. on January 28th on the condition that the petitioner modify the sign to indicate the new hearing date. A waiver of the time for a decision already will be in our file.

All those in favor for granting the motion, say "Aye."

(Aye.)

(Alexander, Hughes, Sullivan, Anderson, Heuer.)

(7:10 P.M.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Douglas Myers, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will now call three cases, all of which involve the same property. Case No. 9855, 9569 and 9626 all involving 45 Foster Street.

Is there anyone here wishing to be heard on that. Come forward, you know the drill.

JOHN GREENUP: Good evening, all. I'm John Greenup, 45 Foster Street. That's G-r-e-e-n-u-p. Based on the conversations with Ranjit, we'd like to request for a delay for an additional two weeks for the 17th of December to resolve some lot line issues that have recently come up.

CONSTANTINE ALEXANDER: Now, there's three cases. One of these is a case not heard -- two is a case not heard -- all

three are not heard, I'm sorry.

JOHN GREENUP: I don't think any of them have been heard.

CONSTANTINE ALEXANDER: The 17th available, Sean?

SEAN O'GRADY: Yes.

GEORGE KENT: I'd like to be heard.

CONSTANTINE ALEXANDER: Okay.
Only on the motion to continue. Not on the merits.

GEORGE KENT: No.

CONSTANTINE ALEXANDER: Okay.
Come forward and give your name and address.

GEORGE KENT: My name is George Kent, I'm an abutter of this property. Many of the neighbors have other plans for the 17th of December. It would be extremely inconvenient to assemble the people who would like to speak to this. We've not been able to speak for two years because it's been continued, and we would like the opportunity

to speak at it. There are people out of town, people who have commitments who cannot be here on the 17th.

CONSTANTINE ALEXANDER: Thank you.
Sir?

MALE AUDIENCE MEMBER: I have a similar thing to say. I will be out of town. It's a thing of set up for months now.

CONSTANTINE ALEXANDER: We'll continue it to a different date.

MALE AUDIENCE MEMBER: Thank you very much.

CONSTANTINE ALEXANDER: What's the next date available, Sean?

SEAN O'GRADY: Let me do some quick math here. I think you can do this on January 28th.

CONSTANTINE ALEXANDER: January 28th?

SEAN O'GRADY: Yes.

CONSTANTINE ALEXANDER: Okay. Not

heard.

JOHN GREENUP: Is there a meeting before that?

SEAN O'GRADY: There's nothing between --

CONSTANTINE ALEXANDER: There's a meeting.

SEAN O'GRADY: Yes, the 14th is full. It's up to the Board, but you are at 13 cases now.

CONSTANTINE ALEXANDER: This case could take a while. It's controversial. If we have a full agenda, I don't think we all want to stay here until well wee hours of the morning. So we'll send it to the 28th.

JOHN GREENUP: Of January?

CONSTANTINE ALEXANDER: 28th of January. Ready for a motion?

The Chair moves that these three cases all be continued until seven p.m. on January 28th on the condition that the petitioner

modify the signs reflecting the date of the meeting, waivers of notice for all these cases already being in our file.

All those in favor, say "Aye."

(Aye.)

(Alexander, Scott, Anderson, Heuer, Sullivan.)

(A discussion was held
off the record.)

(7:15 P.M.)

(Sitting Members: Tim Hughes, Brendan Sullivan, Tad Heuer, Mahmood Firouzbakht, Slater Anderson.)

TIM HUGHES: The Board will hear case No. Case No. 9863, 190 Harvard Street.

Please identify yourself for the stenographer. Spell your name.

TAD HEUER: Can we hear a case when the petitioner is not in front of us?

SEAN O'GRADY: Well, I was taking these gentleman to be the agents of the petitioner. They're from the School Department.

MAHMOOD FIROUZBAKHT: Isn't the petitioner the church?

TAD HEUER: Yes, thanks.

TIM HUGHES: Okay. Where are we? I know we sent you away to come up with a plan so that your property would be protected from any encroachment of the parked vehicles. I

don't know that we have a plan. Do we have anything in the file?

FLOYD LOZANO: Floyd Lozano. I was here last time. I haven't actually seen the exact plan. Michael said he was going to draw one up. I actually have not seen it. We discussed it. I would imagine it would look something like this. Yeah, this obviously describes the rail in terms of height and length. It does not describe placement. What we did discuss in terms of placement was that there is currently a berm line, I haven't measured the distance of that from my house, but there is right now a berm that exists on the asphalt.

MICHAEL DAVIS: Four feet.

FLOYD LOZANO: I'm not sure if that's the near edge or the far edge. The rail that he describes here, and it shows in the example of the picture, would have the posts for the rail driven abutting that berm

on our side of the property such that the rail that would be over the berm that exists now, and that would be sufficient for us to provide a clearance to get along the side of our house, provide more than adequate protection from collision damage. And so we're fine with that. However, this plan, the drawing doesn't state that. So whatever language needs to be present in your, you know, to state that those are the parameters that we established in discussion, would be fine with me.

BRENDAN SULLIVAN: The idea is going to support the guardrail, they're on your property, though.

FLOYD LOZANO: They're still on his property.

MICHAEL DAVIS: They're still on our property, though, yes.

BRENDAN SULLIVAN: Is the distance from your house to the I-beams that are driven

in, what is that distance?

MICHAEL DAVIS: About three and a half feet.

FLOYD LOZANO: Yeah, something like that.

BRENDAN SULLIVAN: And your property line ends at three feet say or something like that? So it's --

FLOYD LOZANO: I think it's something like two feet. Maybe a little over two feet.

BRENDAN SULLIVAN: So you're more than a foot onto your property with that?

MICHAEL DAVIS: Yes. Yes.

BRENDAN SULLIVAN: Okay. And it's to run the entire length of your adjoining properties?

FLOYD LOZANO: Yes. It's not -- what we discussed was three feet from their front fence and three feet from their back fence, which again, would present

vehicles from being able to --

BRENDAN SULLIVAN: You're fine with the length?

SLATER ANDERSON: This says 60 feet.

FLOYD LOZANO: Exactly. And I don't know what the length of our property is. That's approximate.

TIM HUGHES: Any other questions? Have you seen this? Do you have any other questions?

TAD HEUER: No.

FLOYD LOZANO: I'd be happy with any gap less than two-thirds of a car wheel.

MICHAEL DAVIS: It's three feet from each fence on each side.

SEAN O'GRADY: Traffic, in their records has it registered as 10 spaces. I consider the lot to hold significantly more than 10 spaces, but that's the number that they reported back. I don't think it necessarily is a holds anything other than

what's currently registered there. But that was the thing on that, on that sheet that sort of gave me pause. Everything else I thought was supportive.

MAHMOOD FIROUZBAKHT: And we still don't have a parking plan submitted, right?

SEAN O'GRADY: We do not have it yet. My understanding is that -- well, I shouldn't speak for the petitioner. We do not.

MAHMOOD FIROUZBAKHT: That was one of the things that we asked for the last time we met was for a plan of the guardrail, and then a parking plan to sort of identify where the spaces would be and the number of spaces. So that was sort of what I was looking for to see in the file tonight.

MICHAEL DAVIS: Well, I forgot about the plans itself. I didn't recall it, I'm sorry.

SEAN O'GRADY: I will say this: The parking lot's been there for quite a long time

and has had unstructured parking.

Structuring the parking is often punitive to owners of grandfathered unstructured parking.

MAHMOOD FIROUZBAKHT: I understand that, but they're here, the petitioner is here to obtain zoning relief for the use of parking spaces for a fee. And I know we have guidelines with respect to aisle dimensions and parking space dimensions, which are there for a reason because of safety reasons and sort of appearances. And they're there for a reason. I think when you're going to come to the Board to ask for certain kind of relief, I think it's sort of a minimum requirement that you'd have a plan to go along with what you're seeking relief for. I don't know, that's my take on it. And I think given that that's correspondence from the Parking Department indicating that there are 10 registered parking, I don't know what that

means.

SEAN O'GRADY: I'm not sure either.

MAHMOOD FIROUZBAKHT: It sort of begs the question of --

SEAN O'GRADY: I understand what you're saying.

MAHMOOD FIROUZBAKHT: -- what's the status of the permitted number of spaces of this parking lot and how many spaces -- I mean, what's important here for the city is that there's going to be a contractual relationship between the city and the church. And so from a zoning perspective, we want to make sure that the correct number of parking spaces we permit, our decision will allow the use of the correct number of parking spaces. That's one thing.

And then the city's going to have a contractual relationship with the church and agree to a certain number of parking spaces, which if it's not proper -- if it's not

properly done with this Board, and we're not -- and it's not properly documented with a plan, they could be entering into a contract that is not necessarily valid because the number of parking spaces aren't permitted. And that's where I think a plan would be very helpful to clearly identify for our purposes what we're permitting. And then for the city's purposes what they're actually leasing and paying for. So that question doesn't come up down the road by an angry neighbor who says, hey, you're parking 20 cars here and that's not the correct -- you shouldn't be allowed to do that. And then it comes back to us through an enforcement action. So my feeling is if it's not dealt with properly on the front end, then it could potentially be a problem down the road. And so I'm not being obstructionist, I want this thing to happen, but I want it to be done properly.

MICHAEL DAVIS: I just didn't understand you wanted that as a requirement in the last meeting. I didn't understand you wanted it as a requirement. I thought it was a recommendation but not a requirement as far as the plan.

MAHMOOD FIROUZBAKHT: Right. You know, I'm sorry if that didn't come across clearly enough. Is the record fairly clear that that's something that we asked for?

TIM HUGHES: I didn't go over the transcript. My recollection is that we asked for this barrier, but I don't have a recollection of asking for this parking lot to be lined or plotted out. We may have.

MAHMOOD FIROUZBAKHT: I mean, I remember talking about going through and --

SEAN O'GRADY: I do remember you talking about it, no question about it.

MAHMOOD FIROUZBAKHT: And talking about going through and sort of drawing lines

to identify, you know, where the spaces would be.

TAD HEUER: So I'm looking at the transcript. On page 120 we discussed how long we're going to extend, continue the case, and we suggested two weeks. And Mahmood asks how realistic for the parties to come up with a plan for parking spaces by then. So it appears to have been at least referenced. I seem to recall though, I haven't looked for it in the file, my asking a question about whether the lot was lined or not which goes to the same set of questions.

SLATER ANDERSON: I'll offer my thoughts. My biggest concern with this arrangement was frankly your situation. And in fact, you're satisfied and very reasonable and flexible and working with a solution that protects your situation. The church will benefit from the arrangement and the school will address the situation that's been

problematic for a very long time. I see three satisfied parties here. I look at the alternative of this case getting denied or continued and maybe, you know, maybe it gets approved in the future, but I'm not, I don't know if it necessarily needs to get continued. I think -- I was sort of ambivalent about the parking plan because of the grandfathered use of the lot and how it's been used. And frankly, if this case were to go away, the lots would continue to be used in the fashion that it has been. The school wouldn't get what they've been looking for for a long time. You wouldn't get the protections you're looking for for your house. You guys wouldn't get some revenue from the arrangement with the school. So my feeling on this thing is I think this one is right, and I don't see any -- I think it's three satisfied parties, and I'm all for moving forward.

BRENDAN SULLIVAN: I would concur. I was hoping to see protection for the house. How they park self-polices itself. And driving by the lot and imagining striped lines there is a little bit garish. It may work then and it may structure the parking, but I tend to think it would somehow self-police itself.

Is there an agreement with the number of cars with the School Department at all? Or is it just that they have use of the parking area? Is there a number that's in there?

MICHAEL DAVIS: I think the question -- the number is 17.

JAMES MALONEY: It's in the contract that we have.

BRENDAN SULLIVAN: You might want to identify yourself for the record.

JAMES MALONEY: I'm Jim Maloney, Chief Operating Officer for the schools. The bid went out and the church was the only

bidder. And we had -- we clearly stated that bid -- that the success of it must comply with all zoning and permitting requirements with the City of Cambridge. And in our preliminary investigation, this issue of 10 is something relatively new to us. We've been assuming, there would be in the vicinity of 17 or 18 spaces there. It's gonna be an annual lease subject to renewal and renewable subject after three years. We feel that we're protected from too long an exposure on a -- parties stepping forward somewhere down the road that we're limited to 10. Ten at the bid price of 15,000 would be a little bit -- wouldn't be worth our while quite frankly. \$150 per year per car. Once we get into 17 or 18, and we were under the impression that the lot had been utilized on at least two or three days a week, including the evenings, church on Sundays and for meetings during the week, and we would just

mirror that use. Again, we don't feel there's a long exposure here. If at some point there's a party that steps forward and says wait a minute, we would finish the year of that lease and move elsewhere. It's not our interest to overpay for parking. This is a school that serves a large neighborhood population. It is the only school in the district that does not have any parking for any staff members, you know. I don't need to go into the whole issue of parking in Cambridge, but this is a result of off and on search for decades that get filled temporarily, and then a lot gets developed and then teachers are back on the street. And this is an effort to industry to resolve that, at least in the short term.

BRENDAN SULLIVAN: So with that said, I think that I would mirror what you said and you want to pencil in 17 spaces that's -- I'm good with that.

TAD HEUER: So can 17 spaces be penciled in? Whatever this e-mail is from Parking that says they've got registered 10 spaces. If 10 spaces are required by zoning for the church, my understanding is they must be used exclusively for the church. If the parking principally is parking, it may be possible for the church to lease spaces for the school.

I would like to see 17 spaces there as well. If it fits 17 spaces, but if Parking says there are 10 spaces and they can't go over it without violating city law, I'm not about to sit here and grant a permit for spaces that don't exist.

SEAN O'GRADY: Yes. That's where we are.

Legally speaking an unstructured grandfather line holds whatever it holds. And so we're talking about a church, that through practice, and I think we can just feel

this in our gut on Sunday mornings, is packed. That packed state is their parking maximum, and it's grandfathered and it's not -- I mean, we -- unless we're pressed by complaints or something, don't go down and fight with a grandfather unstructured parking lot.

TAD HEUER: Well, is it theirs as in for their use or is it theirs as in they can lease that lot in its full amount of space to whomever they wish?

SEAN O'GRADY: It's a parking lot. And if the question is what's the legal limit to the parking lot, it's developed at that, on that regular practice of Sunday morning. Now that defines the limit of that parking lot. And the parking lot, at this time we don't know what that number is of the -- we just know that we have this practice. And so that was my trepidation with where we were going, because Traffic and Parking's number of registration is not the thing that says,

for my understanding, it's a zoning issue and zoning goes with the grandfather. Their registration isn't the thing that produces the law.

TAD HEUER: So if they want to multiple tandem park on this lot, they can.

SEAN O'GRADY: If they have historically been -- I mean, if they just drive in and packed it like the way --

TAD HEUER: They do on Church Street.

SEAN O'GRADY: -- then they would be able to continue that practice.

TAD HEUER: Could they rent multiple tandem spots if they wanted to?

SEAN O'GRADY: Yes.

TAD HEUER: Can they rent 30 spaces to the City of Cambridge?

SEAN O'GRADY: With this Special Permit. What you're saying whatever right they have, can be transferred to the school

because they've met these requirements of distance and what zone they're in and off hour usage and things like that. And so, yes, with this Special Permit they can, in fact, park to the extent that the parking lot's max is hit. Which is something that we haven't established. So, we could establish it. My hesitation is that that number there is much lower than practice both stated and common sense would say we go into that lot. And I would hate to see the church by trying to come forward for a Special Permit and do the right thing somehow lose 40 percent of their parking.

BRENDAN SULLIVAN: The question I have is how do they arrive at that number of 10? At some point there was a process with the city and Parking got this to go around and count spaces, and it had to do with emissions and all this type of stuff. At some point somebody put a No. 10 on the space. Well.

It's obvious that there are more than 10 cars that parked on that lot. So somebody arbitrarily put 10 down. And I don't -- I wouldn't hang my hat on that number. I think that it works at 17. It works probably at more than 17 on Sunday morning, funerals and all the other times. And I think that we can give them a Special Permit for 17 and tell Traffic and Parking to change that 10 to a 17.

SLATER ANDERSON: You did a calculation that came up with roughly a number of 17 or 18 by dimensional analysis?

SEAN O'GRADY: Yes. The number stated is what we thought was -- what the petitioner felt was in that lot. I looked at it. Now, 17 was the essentially how many cars I could fit in there rounding. So because of the way the lot is shaped and because of the way that the distance of the aisles, I got rounded 17.

SLATER ANDERSON: I'm satisfied

with that.

MAHMOOD FIROUZBAKHT: Well, I just -- I'm looking at the transcript from last time around and I certainly am not interested in limiting the use of parking to 10 spaces and would like to, if 17 is the number, that would be great. But to the rounding aspect of it, I'm not that comfortable with. That's why a plan would have been helpful. And at -- towards the end of the hearing Tim Hughes said, you know: At least the piece of paper with striping on it sort of as the requirements for the next hearing, a plan for striping and the plan for a barricade should be agreed upon by the three parties and in front of us the Monday before December 3rd so that we can just rubber stamp this thing.

I don't know how much clearer you can get than that.

TIM HUGHES: I'm taking from this

that you wouldn't be in favor of going forward?

MAHMOOD FIROUZBAKHT: I'm very much in favor of this application, but not -- procedurally, I don't think that we have enough to grant a decision quite frankly. And I think we were pretty clear about what we needed and required, gave the applicant a fair opportunity to come up with what they should have. I mean, given what we required and where we're at, I don't see how you could proceed tonight. But that's my take on it.

TIM HUGHES: You want to weigh in, Tad?

TAD HEUER: If we ask for things, we ask for things and we want them.

MAHMOOD FIROUZBAKHT: That should have been in the file to begin with, but that's a different story.

TIM HUGHES: So you see where we are.

FLOYD LOZANO: I hear you. I hear you. I mean, I just like to know what to do from this point?

TIM HUGHES: Well, what we need to do at this point is continue the case again. You have to give us some kind of plan that would satisfy these two Board members before you can proceed, because there aren't enough votes here for your petition to be granted.

FLOYD LOZANO: His.

TIM HUGHES: His petition.

TAD HEUER: We want to grant it and we want these people to park there and to have your house protected.

FLOYD LOZANO: As an interested third party, I would suggest you need to come up with a plan like a lined plan where parking spaces are actually going to sit. In order for this to be rubber stamped someone needs to be available to review this plan to say it meets the zoning criteria in terms of length,

width and I'm not sure what the process is.

SEAN O'GRADY: This is the fundamental problem, there is -- grandfathered parking is not going -- not necessarily going to fit the ordinance. If we were to build a parking lot now, I'll never be able to sign off, and this is conforming to the ordinance because of some of the oddities and because it's not a new building and we won't have five foot setbacks.

TAD HEUER: But they're looking for 17 spots, right? We're granting --

SEAN O'GRADY: I'm sorry, the petitioner can give you 17 spots, but I can't tell you that those 17 spots are necessarily going to conform to today's ordinance, and I'm not sure that they should be required to meet today's ordinance because it's a grandfathered, unstructured lot.

MAHMOOD FIROUZBAKHT: That's a

determination that we should be able to make whether those spaces should comply with zoning and you're probably right. They don't -- necessarily don't need to comply with the zoning -- if that's, you know, if that's the case, but that's not to say that we can't still make our decision based on some, some plan that says, okay, these 17 spaces that may not necessarily meet current zoning are going to be the spaces that are the subject of our Special Permit.

SEAN O'GRADY: Okay. I didn't want to try to put a round hole in a square peg.

MICHAEL DAVIS: Are you saying your decision based upon that plan would not negatively affect us in terms of our normal use being that we can tandem park on a Sunday morning?

TAD HEUER: Right.

MICHAEL DAVIS: The parking is well above 17 spots.

TAD HEUER: I -- personally, I don't know about my colleague, I don't know if I want to require that the lot be lined. I would like to see a plan with lines on a piece of paper showing that 17 cars will fit in what seems to be a reasonably accessible way so that can go in the file along with a schematic of the guardrail that shows where it's going to be placed. So if, you know, your neighbor comes out and says we had a zoning hearing, we had a determination the guardrail is going to be X and all of a sudden it ended up six inches from my house, he needs to be able to come back to point to something that we decided. Here the overhead view. It's going to be a little distance wise of three and a half feet or wherever it is to the pilon, you know. I think that's important to have the three dimensions, and then to at least show that it is reasonable to fit 17 cars for the school's purpose on this lot.

SLATER ANDERSON: Can I make a wild suggestion?

TAD HEUER: I'm happy to, yes.

SLATER ANDERSON: Your plan is divided by the city in here. Is it possible for these folks to go sit in the other room and draw some lines on this plan?

SEAN O'GRADY: Yes.

SLATER ANDERSON: According to you, the lines really have no bearing other than satisfying the request of the Board because of the grandfathered nature of this preexisting use. And if they can show 17 spaces on a plan here and the Chair can initial this thing later this evening, is that sufficient, for one, of you?

TIM HUGHES: I'd be happy to initial it. I'd be happy to put this to rest tonight rather than sending them away and making them come back again because we know we're going to agree to something in the future anyway.

I know you have a procedural concern here, but it's a procedural concern that may or may not have any weight first of all. And second of all it's putting an undue burden on the petitioner to send them away for another two to four weeks or whenever we can squeeze them in. The school year is ticking away. We can't put them off. The sooner we can get the School Department -- the school's employees parking in this space, the better off everybody is going to be.

TAD HEUER: That's true. There's no undue burden in producing of what's been required of you by the Board. That's the minimum requirement.

MAHMOOD FIROUZBAKHT: It was pretty clear it should have been in the file earlier in the week on Monday which is typically our practice. If there's comfort on the Board that that does not unduly prejudice neighbors and abutters and the public, then I would be

perfectly fine with that. If they submitted that on Monday, I would be happy with what you're suggesting in terms of drawing the lines. But is there comfort level in essentially requiring something and then doing away with that requirement or waiving that requirement?

TIM HUGHES: My comfort level exists in this when I said those words that are in the transcript about striping on a piece of paper, I wasn't aware of the information that I've heard from Sean O'Grady tonight. That the preexisting grandfathered, you know, situation on this lot supercedes any lining on this or any numbering of spaces and stuff. So if I had known that then, I wouldn't have made that a part of the requirement for them to come back. What I was really dealing with and what I really wanted to see was a physical barrier between the petitioner's lot and the abutter's house. And that was what I thought

was the important part of this process. And in light of new information, anything I said in the last transcript I'd be willing to withdraw it.

FLOYD LOZANO: Well, I mean, from what I heard at the last meeting, I was actually made more comfortable by the idea that there would be lined parking spaces for daily use. I would be highly uncomfortable with unlined, untandem parking with the morning and the evening because this would produce in my mind a chaotic parking situation that would be noisy and difficult and would disrupt our sleep in the morning and my work in the afternoon. So, I wouldn't be so cool with unlined parking and, you know, cram as many cars you can in the day everyday. We put up with it on Sundays, Wednesday nights, that's as much as we're willing to put up with it. I don't know what that means, what our protections are legally because of

the grandfathered use of a parking lot in order to mandate that kind of usage, but I would say that we would be highly uncomfortable on an ongoing daily basis.

TIM HUGHES: Great.

FLOYD LOZANO: Sorry. I don't know what else to tell you. I know you had it locked down.

MAHMOOD FIROUZBAKHT: And quite frankly that's where my concerns would stem from, exactly what you're relaying, in that all of a sudden this becomes a packed house and we've sanctioned that with our decision by not having a concrete plan in the file which sort of records what was granted.

FLOYD LOZANO: I can see the way they undue, the way they unthread parking on Sunday afternoons.

TIM HUGHES: Well, I don't see that you're going to be able to satisfy the Board by even drawing lines on this plan. I would

suggest that you make a continuance and I'll make a motion for a continuance and you draw up a plan and come back to us.

MICHAEL DAVIS: And when would that be?

TIM HUGHES: What's the earliest date, Sean?

BRENDAN SULLIVAN: What's the next one in December, the 19th?

SEAN O'GRADY: The 17th. Well, I guess now that Foster is not on the 17th, we could do the 17th.

TAD HEUER: 17th is fine.

TIM HUGHES: The Chair would move to continue case No. 9863 until December 17th at seven p.m. on the provision that the sign be changed to reflect the new date and time. All those in favor?

(Show of hands.)

TIM HUGHES: Five in favor.

(Hughes, Sullivan, Heuer,

Firouzbakht, Anderson.)

TAD HEUER: And in the file
by -- what's the Monday before?

SLATER ANDERSON: 14th.

SEAN O'GRADY: I'm so sorry, the
Monday before.

TAD HEUER: The Monday before, the
14th of December.

JAMES MALONEY: Obviously we like to
have this happen as soon as possible. I
think we can ask the petitioner if he can
accomplish that in that time frame. He needs
to find an engineer that can help him lay out
the lines. And I -- that's my only concern
here. We're not able to do the work for him.
And I just -- I don't want to see you
frustrated yet again by not having a plan in
front of you.

FLOYD LOZANO: The school system did
assist some grounds person.

JAMES MALONEY: We did attempt to

meet out there with somebody that day. We're limited. We can certainly help a little and we can help him find vendors. We would be a tenant and we have a bid and we can't spend money for the commercial endeavor. We're sort of in a pinched position here and we cannot do the work or provide employees for the work.

TAD HEUER: Given this is a grandfathered lot, my concern personally is that an indication that there is space, visual indication for the file, for the record, as a document, that there is space for parking for 17 vehicles of average size and we can make a determination about whether those spaces are slightly smaller than what the ordinance requires, but is acceptable because we're looking at a grandfathered lot. But something objective in the file that shows space for 17 cars roughly correlated to the size of parking spaces that are required

in the ordinance for a lot that size. And to have something in the file that demonstrates not just the width and the height of the barrier, but where the barrier will be placed in terms of distance from the lot line and distance from the abutters -- abutting neighbor's house. So those two items. I don't think we need something where the engineer comes in and marks out the lot, because personally I don't think that necessarily needs to be a lined lot. But I do want to see an indication of the number of spaces that are going to be there, and presumably that will be used by the city to determine where the parking will go and instruct the school employees we expect this parking plan to be followed even if there aren't lined spaces that line it out. I think that for me would strike the balance between the needs of the school and the church to have this -- the school to have this lot

running as quick as possible. The church -- the neighbor will have some assurance, even if it's not a lined lot, that cars should be parked in an orderly fashion. And we have the protection of the barrier. And it provides me with some certainty that if someone pulls out this file in five years when your contract is up, someone can say this did not work what do we need to do? That's where I'm coming from.

MICHAEL DAVIS: Okay.

TAD HEUER: And I mean in the ordinance, you know, there are dimensions for the parking spaces, so it's not -- it shouldn't be significant math to lay out approximately where these things will line up on the lot I wouldn't imagine.

SEAN O'GRADY: That's correct.

TIM HUGHES: Since all that came in after the vote, do I have to do anything procedurally to make that part of the record?

SEAN O'GRADY: No. He's advising the petitioner.

SLATER ANDERSON: Petitioner, you understand the plan --

MICHAEL DAVIS: I do understand.

SLATER ANDERSON: -- the plan requirement?

SEAN O'GRADY: Parking plan on a plot plan.

SLATER ANDERSON: By the 14th.

TAD HEUER: All right.

SLATER ANDERSON: Thank you.

(A discussion was held
off the record.)

(7:50 P.M.)

(Sitting Members: Constantine Alexander, Brendan Sullivan, Slater Anderson, Douglas Myers, Thomas Scott.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9849, 38 Avon Street.

Is there anyone here on that matter? Please come forward. For the record, give your name and address.

MARK BOYES-WATSON: Mark Boyes-Watson, Boyes-Watson Architects, 30 Bow Street, Somerville.

MUIREANN GLENMULLEN: Muireann Glenmullen, M-u-i-r-e-a-n-n G-l-e-n-m-u-l-l-e-n, Four Channing Circle in Cambridge.

CONSTANTINE ALEXANDER: You're not a petitioner. When you're ready to speak -- who are you?

PATRICK HIGGONET: And I'm Patrick Higgonet, H-i-g-g-o-n-e-t, and I live at 32 Avon Street.

CONSTANTINE ALEXANDER: Okay. Just a little framework on this. This is a case continued as heard. And you're seeking

basically FAR variance for FAR relief to allow a conversion from a single-family to a two-family because right now the house does not comply with the FAR requirements. And in our hearing last time I think it's fair to say, you can correct me if I'm wrong, that the Board -- various Board members expressed two kinds of problems:

One is that we were concerned about the historical nature of the structure, and that we had received no input from Charles Sullivan. It's not any kind of a Board in the town. And you went back, and there's a letter in the file from Mr. Sullivan which we'll get to in due course, and you modified the plans which you're going to get to in due course. And there were some concern by certain Board members that you didn't justify hardship to grant the variance. And I'll trust that before the presentation is over that you'll address that at well.

MARK BOYES-WATSON: So I thought that maybe just following in that same order if I quite quickly review the changes that were made in a consultative process with Charlie Sullivan prior to his writing of the letter, and also responsive to some of the Board's comments and indeed the neighbor's concerns. So I'll just do that quickly. It shouldn't take long.

So basically the premise remains the same which is a restoration of -- this is the existing of the top on each of the boards and the proposed at the bottom. One of the things that Mr. Higgonet had mentioned, sort of a sense of loss of the bay which was taken off in our previous scheme. Charles Sullivan shared that concern. And actually we redesigned the elevation of this to retain the bay. And actually we then went back through the plan to make as little change as we could and that was something that --

CONSTANTINE ALEXANDER: Change to the structure?

MARK BOYES-WATSON: To the structure. So that the -- so that the historical structure -- so there really is a restoration project. That's the idea. So that basically is the change in the plan in order to accommodate the bay here so all the other provisions of that plan pertain. So again, this board is configured with the existing at the top. So here's the front elevation on Avon. And you can see -- and I think it was basically unchanged before, but it's still unchanged except here's the bay that still exists on this side. This is the rear elevation actually not really visible from the street.

CONSTANTINE ALEXANDER: Front elevation.

MARK BOYES-WATSON: No wonder everyone was looking at me. This is Avon

Street elevation existing and proposed. And the rear elevation, actually, if you look at the previous plan it was more fenestration, we actually slightly made more modest the fenestration. So here's existing proposed. That's not the form for major change. I'm going to go to the easy one and then go to the major one. So this is was the side elevation on the left-hand side.

CONSTANTINE ALEXANDER: Can you see, sir?

PATRICK HIGGONET: I can.

MARK BOYES-WATSON: So the side elevation -- and you can see actually that again we actually -- there's a slight, this one -- base eliminated basically. This one is eliminated here. Again, pertaining as much as possible. The major chains on the elevation that accommodate the second unit. Again, just to -- the second unit is allowed by zoning but restricted by 5.26 of the zoning

code, which doesn't want that unit added without the Board's review for a structure that's got more FAR than is allowed by zoning. So the second unit that we're adding -- so what happens here is, here's the front billing.

CONSTANTINE ALEXANDER: That's the side of the building?

MARK BOYES-WATSON: Okay. Here's the side elevation, front building. Here's the bay. And if you look at the previous plan, we had actually, by removal of the bay, we had to do this fenestration. Now we don't need to. All these historical windows get to stay. Charles was happy with that. So that's what you see here. There's still moving that dormer across here. We reduced the number of skylights from four to two. In this middle section we retained the blind window of the existing. We're still doing this of a breakfast unit, this room is still

here. That was already here in the last plan. Coming to the back where these garages were, a later addition, we have -- this is a reentrance door. So the glazed door you see is set back. This is a pair of barn doors that are sort of partially opened because this was the original hay door. So this will be in deep shadow here. And then we had, I think if you look at our previously arched openings, Charles said we put the simple -- and we replaced this with the simple architectural form. And there's the entrance to the second unit. So, basically in summary -- and that -- so it's on the basis of these drawings that Charles wrote his letter that's in the file.

CONSTANTINE ALEXANDER: Why don't we at this point read the letter that's in the file into the record.

MARK BOYES-WATSON: That would be great.

CONSTANTINE ALEXANDER: It's a letter addressed to Ranjit Singnayagam dated November 25, 2009 signed by Charles M. Sullivan, Executive Director of the Cambridge Historical Commission. "I'm writing with regard to the above referenced application for relief in the zoning ordinance. The house at 38 Avon Street was built in 1855 and represents the transition in architectural styles from Greek revival to Italian age. The Italian age features include the flush boarding on the front, the heavy projecting corners, the rounded gable window, and the square bay window all applied to a form that was developed in the Greek revival period. The house is perhaps unique in Cambridge for having an attached barn. A feature that is much more characteristic of northern Italy. While 38 Avon is almost identical to 32 Avon, that house had a separate barn which is now the residence at

No. 34. Preserving 38 Avon intact would be a high priority for the Cambridge Historical Commission. The proponents in this case met considerable resistance from neighbors over their plan to remove the bay window, alter the house and barn and park in the side yard. I met with them at the Board's request and suggested that they preserve the bay, minimize the rooftop penetrations, simplify the fenestrations and alter the detailing of the barn to be more in keeping with its original design. I am gratified that the proponents have accepted my suggestions and I am pleased to recommend that the Board grant them the requested relief."

Question: Did Mr. Sullivan see these plans that we're seeing right now?

MARK BOYES-WATSON: The exact same plans right now.

CONSTANTINE ALEXANDER: Continue.

MARK BOYES-WATSON: So, maybe if we

just -- if there are any questions about the architecture, because then we were going to speak on a little bit about the hardship and those issues.

CONSTANTINE ALEXANDER: Any questions?

BRENDAN SULLIVAN: The parking plan.

MARK BOYES-WATSON: The parking plan was -- basically a couple of things about the parking plan. The Board -- the existing parking configuration is like this, right? And the proposed parking plan is here where the two spaces are set a little further back from the street. And you see this necking down of the -- I know members of the Board had expressed some concern in terms of the pattern on the street. So what we did is to make sure that you keep the landscaping as far across as you can to the curb cut and then widen out to provide those two spaces. We

also looked at the issue of, you know, the characteristic of the street somewhere. So I -- because also, you know, there was this question of whether it would be out of character to do it in that manner. So we first tried to mitigate how it was. And also took a look at, which it just, just in terms of that issue of consistency with the neighborhood and whether it would be sort of incongruent with the neighborhood. Here's Avon Street. It's a two -- well, a one block street this side and a two block street this side. And actually, when you analyze the whole street, of all of the structures and lots on the street, the proponents of them actually have a similar parking situation to this. I think over in history people slowly have done the same thing that is proposed here at 38 Avon, which is to move the vehicles so that there's more green space. But what you -- when you go now and you walk down -- do

you have a count on that?

MUIREANN GLENMULLEN: Yes.

MARK BOYES-WATSON: There's four long driveways and how much stretch?

MUIREANN GLENMULLEN: I think 15.

MARK BOYES-WATSON: Four of 15 have long driveways. So I think it's not incongruence with the situation elsewhere on the street.

CONSTANTINE ALEXANDER: Any other questions at this point?

DOUGLAS MYERS: One question about the plans. In other places in your materials you make reference to your future intention with regard to flush clapboards and bracketing of the soffit line. Are those elements shown on your plans.

MARK BOYES-WATSON: Yes.

By -- actually, I don't know if they're noted on the plan. But let me just look at that front elevation. If they're not, we -- it's

not noted, but it is a commitment. We'd be happy to have that as a condition. It's not noted. But yes, all the bracketing and the existing trim and the flush boarding may need to be replaced. It's fairly badly warped and, you know, it swells out. But it would be replaced out to match the existing. We would be happy to work with Historical to get them accurate.

DOUGLAS MYERS: My question simply was whether they were referenced on the plan?

MARK BOYES-WATSON: Right. Only by the fact that this elevation is unchanged and not by note.

CONSTANTINE ALEXANDER: Anyone else? Go ahead, you want to go on to hardship now?

MARK BOYES-WATSON: Yes.
Larry -- I think Larry was going to speak.
We're going to speak --

LARRY SIEVER: Why don't I as the

owner address the issue of hardship. The choices we have faced and do face. Clearly there are a number of options before us, and so let me focus first on the options that in some sense preserve the historic nature of the location of the site, not the only options, and we have evaluated those options, and indeed this is why we say this is the only option that doesn't cause hardship for us -- my brother and I as owners, because we have looked carefully at all of the options, including single-family dwelling which we've costed out the figures and renovations. We end up with a loss of about \$400,000.

CONSTANTINE ALEXANDER: Of what?

LARRY SIEVER: A loss of 400,000. A base of selling it to a developer. We have pretty much major renovations to restore it in the way we're talking about. So, if we undertake that kind of restoration, we need to be assured that we're not going to incur

a major loss from what we get at base for selling it as is to a developer or demolishing it or whatever. And we have figures we have pursued with the realty agent that's a really prevailing real estate agent in the neighborhood, Hammond who we initially consulted even before we began to do this plan. And we have all those figures available. And we have another option, which demolishing the barn, garage, making it two units, that also incurs a loss. And it sacrifices of course some of the historical --

CONSTANTINE ALEXANDER: Why does it result at a loss? You'll have two units.

MARK BOYES-WATSON: Yes, so maybe -- so I guess -- I just want to interpose a little bit, and it's interesting because we talked about that option at the last hearing.

CONSTANTINE ALEXANDER: Right.

MARK BOYES-WATSON: And actually one of the things I was concerned, and I think I mentioned at the last hearing, this is a little diagram that's confusing. Here the hatch represents what we keep. But actually if you go back to the allowable floor area, right now the barn is partially inhabited at this end right now. But you would have to take off all of the barn and actually some of this middle piece. This is where you get to the limit of the -- if you were to build this historic structure to date, you would be allowed to build that. So that's sort of an interesting graphic. So actually the removal would be the barn and then about, something like ten feet.

CONSTANTINE ALEXANDER: And the structure that's crossed out, that's allowable?

MARK BOYES-WATSON: That gets to stay.

CONSTANTINE ALEXANDER: Would that be sufficient for two families?

MARK BOYES-WATSON: So then whatever -- right. And all the calculations we did are based on taking the allowable FAR, which is 3,000 something, something, you divide that and get those two units, 1700 square foot units. And as Larry said, when you do that math, the math that the restoration of that, it's actually, you actually cost for the demolition, for the removal. And then you actually have less cost for renovation because the building is smaller now. But you have less to sell. So you actually end up saving one end, but denigrating the other end. So actually it turns out that that's also not viable to you. You would never do that. And I think that we have the exact figures. It ends up somewhere -- it's not as -- it's not as bad as renovating a single, but it's still not

doable. You couldn't enter into a restoration like that.

CONSTANTINE ALEXANDER: Just elaborate. What's the meat on the bone? What's a couple thousand?

MARK BOYES-WATSON: We have a couple --

LARRY SIEVER: And also have some general comments in general.

CONSTANTINE ALEXANDER: You'll have a chance.

MARK BOYES-WATSON: Why don't you get a packet out. So this was --

MUIREANN GLENMULLEN: I have one for everybody. Should we give it to everybody?

MARK BOYES-WATSON: Trust me, one as eyes.

LARRY SIEVER: It's not novel type writing.

MARK BOYES-WATSON: So that's the one -- so going back, that's the one that

Larry first spoke of. If you do it as a single.

CONSTANTINE ALEXANDER: This is a single?

MARK BOYES-WATSON: Right. And just -- and this is obviously not an elaborated -- and what we're trying to do here is what you'll see in each of these -- what's interesting and complex to grasp is that, you know, your floor area that you're building out changes in the different schemes, cost change but it all comes down to the same. You can see where the bottom line ends up. What happens is the renovation costs is slightly greater for the two units than it is for the single. But again, you're on less area. But you'll see how they work. And I'll stop talking so you can read it. And I'm going to hand out the one that --

CONSTANTINE ALEXANDER: Nice brokerage fee here.

MARK BOYES-WATSON: You can leave it out or leave it in.

CONSTANTINE ALEXANDER: The idea is to show why this is not --

MARK BOYES-WATSON: Yeah. You know, we debated whether to leave it in. So it's not as --

DOUGLAS MYERS: You should have taken it out.

MARK BOYES-WATSON: -- on everyone. We left it the same in every one so it's not distorting the figures. It's the same value. You know, when you get into this --

CONSTANTINE ALEXANDER: With comparing this renovation to a single right now to what you can sell the house for and brokerage fee is not relevant.

MARK BOYES-WATSON: Just take 100,000. Add 100,000 or the bottom line.

CONSTANTINE ALEXANDER: The landscaping has nothing to do with the --

MARK BOYES-WATSON: It goes to renovation. If you say -- what we were doing is analyzing what it would take -- the argument here is you have an existing structure, you have the right to do two units, right? So the question is for the Board, I think, I should propose -- but the existing of this existing structure on the lot -- and, you know, pertains to the lot. And then the question -- and then the Charles Sullivan historic structure sort of giving some weight to that existing structure, but it's not in the structure. And then saying okay, here I am, but the -- in front of the Board though, because the code doesn't automatically allow us to add that second unit. So in order to add that second unit, the Board would need to find that the -- that the structure exists on the lot. The way it exists, has, has a limitation. Limits the law in which we try to renovate it, you -- it would create a

hardship. We go all the way down this list to removing it entirely. So I'm taking you there in steps.

The second step is the way that the 5.26 is written is it would, it would suggest, because 5.26 says you must conform to floor area. You must conform to open space and you must conform to parking. Actually, the current house does not conform to open space. We're rendering the open space more conforming by this plan. We are satisfying the parking requirement, but we continue to be excessive for floor area. So what the -- in the first one we simply use the whole thing, but we find we can't afford to renovate the house which is what actually other people in the neighborhood have found. And there have been several variances granted in this neighborhood for kind of this reason. It's a single-family area, it's an area where multiple units on these lots, typically down

the street, abut. Notwithstanding you say let's do a -- let's bring this -- let's not demolish the building but bring it into conformity so you don't have to come here. So you can do it. If you reduce it to the as of right, so that's this demolition, which is this partial demolition. It's an addition of two units, and we could do this as of right. So I guess -- because we talked about options at the last hearing, and this is an option. It turns out, though, that here we've got this extended thing with it, historic bond which is actually precisely the interesting feature about this historic house in terms of what historic sees the quality of this historic value. I have worked on a house with one of these barns like this before. So that's the second thing that I had to do.

The third thing that we analyzed, because I think it is fair and it's sort of -- I think the most difficult one which is

that if you remove the thing entirely, actually you end up with two houses of that same size, those 1700 square foot. Maybe they're attached, maybe they aren't. They conform to zoning. They just need a building permit. Because, again, the lot is zoned for two. That actually is an interesting pro forma because that -- because that pro forma, it's cheaper to build the new ones. It's much more to do the restoration work. So what happens when you do that, is you suddenly manage to get into positive territory where the other two you wouldn't be able to -- it just doesn't work. Whereas now when you demolish the thing entirely, you get, you get into positive territory. You get -- your construction costs come down, your sales prices are slightly higher for the completely new construction. And that is an option. And that could be a problem, but that is a perfectly fair option. You could do that.

But it really would be forcing the demolition of this structure.

And the third one, of course, you know, I mean, we don't know if you need this one, but this is the one we say what are you proposing? And what you'll find is that we did it. When you look at the doing what we came for relief for, what you're gonna find is that that performs similarly to this one I just handed you, the complete demolition and the new construction. The reason being that what happens is you have, you have more to renovate. In fact, more than any of the schemes you're renovating because now you're renovating with a garage, putting a lower number in with a single because it's just too big. And you're finding it performed similarly with what would happen if you completely removed the structures. So it's viable to do what -- we had done this math before, but it works. And so obviously the

proponent's huge preference is to do this. The question is it preference enough or is the fact that it's here, the structure's on the lot. And actually I think some attributes of the structure become relevant like, you know, it's a front house, mid-house, barn, you know, that sort of whole New England package. It's lots of rooms that go through. You can regard that as part of the kind of quality of the this existing structure. Remembering I think the umbrella always has to be that the underlying zoning here, it's not relief for the second unit we're looking for, it's the being allowed to retain this historic structure at the same time as adding that second unit that entirely by zoning.

BRENDAN SULLIVAN: We can get into a philosophical debate and discussion.

LARRY SIEVER: I have some comments.

CONSTANTINE ALEXANDER: One second. Mr. Sullivan has the floor, please.

BRENDAN SULLIVAN: Just to read this, and for discussion, I think the starting point for me is when you sit down, what would a renovated house sell for in this neighborhood. And I think the answer is to the tune of 2.2, 2.4. I guess maybe with some --

MARK BOYES-WATSON: Yes, they gave us a little printout. These are the most expensive. What we asked for is the best one, the sold for the highest values in the neighborhood. And this goes, you know, it's right here kind of thing.

BRENDAN SULLIVAN: So at that point you start at the high end and say I could sell this house comfortably for \$2.2, \$2.4 million if the right buyer comes around. So that's your starting point at 2.4. And then you say what's the cost of renovation? And again between 225 and 240 a square foot. Now you're down to that 1.12 and then adding in

all the attributes and the amenities that you're going to put in there which takes you back to the value of the existing house is not \$1.2 million.

MARK BOYES-WATSON: But we've looked at -- it is an interesting question.

BRENDAN SULLIVAN: You start at and then you back your way down rather than starting at the top and then --

MARK BOYES-WATSON: But it actually -- first of all, there obviously has been a lot of discussion about what the pegging that value of the house. Actually, we -- we've used all these, the value of what we think is the highest. There are people of the lowest value. But the relevance being this: Is that if you were -- again, the existence of the structure, if you were to demolish the structure, this is a viable two-family development with no structure on at that value, at the 1.2. That's what.

BRENDAN SULLIVAN: So in other words, if you purchased, if you bought this for 1.2 and your demolition was 600 --

MARK BOYES-WATSON: We had 80,000 on it I think.

BRENDAN SULLIVAN: I'm sorry.

SLATER ANDERSON: The demo was 85.

BRENDAN SULLIVAN: 85. So now you're at 1.3.

MARK BOYES-WATSON: Yeah.

BRENDAN SULLIVAN: That's your starting point for an empty lot?

MARK BOYES-WATSON: Yes.

BRENDAN SULLIVAN: I don't know.
Again....

LARRY SIEVER: Can I speak to this?

CONSTANTINE ALEXANDER: You'll have an opportunity, but let Mr. Sullivan, a member of the Board speak.

LARRY SIEVER: I might be able to speak to that.

BRENDAN SULLIVAN: Well, anyhow, I think that starting point is a very high mark myself.

MARK BOYES-WATSON: Well, we looked -- I think it's an important question. And it's obviously important to establish.

BRENDAN SULLIVAN: Because that's where it gets into the hardship. Because when you start adding up all these other things, then you say well, that's my hardship. But I think you're starting at a high -- at a high number. I'm not saying that there isn't a practical --

MARK BOYES-WATSON: So I totally agree with you. And I see this thing. What's interesting here is that if you were to renovate this as a single, you look at those numbers and you can quibble a little bit, it's basically the numbers. It's negative 400,000 is it? What you're selling for is eight. We all know that house will

sell for more, right? Right? But what's interesting is -- it's interesting how the existing structure is -- what it's doing to the lot, right? Because, again, you could take it all down and you can afford to pay 1.2. And -- and if you were renovating it as a single, the bank's going to borrow money and spend a million dollars, you will -- you'd be a lunatic. Because talk about these upside down mortgages, you'd be upside down on the house. Which if you adore historic structures, that's great. But if you're not willing to invest \$400,000, you'll never get back. You can't actually. So that's where the -- that's where I think a hardship does emerge that is very specific to the lot, to the house, to the way that it acts to the fact that it's a two-family. To the fact if you took it down -- there is in there a relationship with the -- what really we came to with before and we've refined, I think,

with the Historic Commission's help in terms of this thing, that to restore this in a viable way, to restore this house is to make it into a two, and that's why we're here. Because that allows you to come, have the land come up to its inherent value for it being a blank lot and have it behave very similarly. Absent the fact, which is the question I think we raised last time we were here. Absent of that why don't you do this, why don't you do that, you could demolish the whole thing, but if you want to renovate it and the single doesn't work, but neither does the paired two. I -- we did not prepare the paired two either. Just rather on the paired two, that they have this massive garden. This house, all clustered at the front and this huge garden, the front house has no -- the front townhouse has no access to. That even denigrates the value of that. So anyway, so basically I think what starts to emerge is

that the house, the specific historic structure on its lot as it relates that's how I think it, and I think that's how it seems to come.

CONSTANTINE ALEXANDER: Mr. Siever has been dying to say something.

LARRY SIEVER: I'd like to put perspective as owner, I'm not so conversant, although I've reviewed these numbers, I want to put it in context of choices that I have as an owner. I have a choice to try and take the property and restore it. I'm not obligated to do it. And I have to look at the hardship to me, and I have to look at the numbers I've got. And when we started out, we did of course look at a number of options one of which was selling as is. And the 1.2 figure was sort of the sort of consensus figure of what we might get. If possible we might get less. It's possible we could get a little more. In fact, in terms of our

discussions with Muireann Glenmullen which came subsequent to that, that's what we used as our established base price, and this was a consultant with Hammond and etcetera. So this was our yardstick. This did not come from this document today. It wasn't some made up by preview. It came with the consensus with real estate agents. Real estate agents did say if you renovate in certain ways, maybe you can sell it for, you know, 1.78, you know. But we looked into that in terms of getting contract, you know, somebody to do the exterior, somebody to do the roof. I mean, it didn't add up. Furthermore, it was really feasible given that my brother and I are not in the area to supervise all that. This is when we began to entertain the idea of developing it as a renovation. And then when we consulted with Muireann Glenmullen, she went through the reasons that are much more viable to do that

as a two-unit option, but we have to get a variance of course. Now, I didn't know all that would be involved. You know, hindsight I could have made different decisions, but here I am. And what I'm saying is that these were the yardsticks we were using. Now, remember, this neighborhood is no longer a single dwelling neighborhood. Many individuals, including Mr. Higgonet have been granted variances. He could -- in fact, he even went to my parents and got them to approve it. He went to my parents in 1995 to support his variance to build a third unit for the purpose of him renting these out, which he does, I think at respectable rates. I'm sorry, that's a matter of record and we have the letters.

CONSTANTINE ALEXANDER: That's not relevant.

LARRY SIEVER: We can point to. But it is relevant whether the Higgonets or

others, there have been numerous variances and changes from single to two or three family dwellings that have been granted for reasons not dissimilar to this. It is a kind of precedent, I think, is reasonable for us to look into and think about. And part of it is okay, we've got a footprint which is kind of unusual, but it is grandfathered in in a sense that that's what we have to work with. But it would not satisfy zoning requirements today. In other words, we couldn't have that footprint going for a two-family unit. We have a very long, narrow footprint, you have to go through multiple units. It's kind of set up like a, you know, train. You have to go through multiple cars. There's no way to go around them. It's not really such an optimal structure for a single-family. So it made sense to renovate if we want to preserve the historic nature, which is why we were responsive with this and reserve the

historic nature of the house which we could do with the plan that we presented.

Now, our figures the way we have done it, it doesn't work as a single-family. It doesn't work as a two-unit trunking off the barn which of course would also diminish the historical significance. We do have the option of selling it as is to a developer or demolishing and undertaking the development. Those are legal options we have. We believe there's justification for a variance given that it allows us to preserve the historical nature of the building. It allows us to actually keep that barn structure and we do have letters of support. We have a letter that should be in the file from our neighbors the Whiteheads who suggested this option to us as we were thinking of alternatives. And they said why don't you call Muireann Glenmullen. They actually had a variance that they received, and it's all outlined in

the letter. They had a somewhat larger structure and they elected to get three units which they got a variance for from the Board to add the addition. And to get the zoning or whatever it was. And they very much support the idea that we keep the structure as the footprint as is with the barn which of course does introduce the issue, the requirement for a variance if we renovate. And we also got support from one of the other longstanding neighbors. So they would like to see the barn preserved. Now, granted we don't have to do that. We have other options. The other options don't frankly preserve the historic character of the house. And so we have to work with what we have. And granted you can -- this is the base price we used from the beginning, but you can quibble about the figures, but these are the choices we face and we hope that the Board will see the overall optimal quality of this by

preserving its historical status by allowing this financially viable option. Ultimately we have to make the decision about which of the options that we're entitled to we can use, but that --

CONSTANTINE ALEXANDER: Okay.

LARRY SIEVER: -- that's our thinking.

CONSTANTINE ALEXANDER: Thank you. Thank you. You all set?

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: Is there any questions at this point of the Board members or we just take comments from the audience.

THOMAS SCOTT: Would the house be broken up into condos or sold as separate units or under one ownership?

LARRY SIEVER: It would be two units. They would be --

THOMAS SCOTT: Under one ownership.

MARK BOYES-WATSON: Condominium.

CONSTANTINE ALEXANDER:
Condominium.

LARRY SIEVER: They would have the
zone owner unless somebody bought the two.

CONSTANTINE ALEXANDER: Anyone here
wishing to be heard in this matter?

PATRICK HIGGONET: My name is
Patrick Higgonet. I live at 32 Avon Street.
I have two statements.

First, the supporting statement for a
variance which Mr. Siever (inaudible)
and -- a letter from Mrs. Glenmullen.

Michael and Larry Siever --

CONSTANTINE ALEXANDER: You're
reading your statement?

PATRICK HIGGONET: Yes. They've
written a letter dated November 28, 2009. I
forwarded this letter to you. Which aims to
establish a parallel between the petition of
Larry and Michal Siever which is presently

before you, on the one hand; and the one that my wife and I submitted to your board in March of 1995. I would like to respond to the Sievers' letter.

In one respect the letter is correct, the plan submitted by the owners of 38 Avon Street does not increase the footprint of the house, whereas ours did so, by 51 square feet which I might add, was under one percent of the lot size. I will add likewise that this addition of a porch and of steps that went with it is invisible from the street. And also, that to my mind at least, this addition significantly improved the appearance of the entire property. The Sievers' plan is instead to move the parking space from their house from the back, where it is currently invisible to the very front of the street, where it will be completely visible.

In other respects, the parallel their letter tries to establish between our

petition and their petition is invalid. We did not in any way change the appearance of the house or driveway as seen from the street. Far from it. We restored the front of the house to its original state, left the parking spaces where they were, left the bay windows as they were, replicated original colors of the house for its shutters and changed the location of the electric and telephone wires to make more visible architectonic details like the coins at the four corners of the house. I might add that the house opposite us was recently restored to echo the appearance of our own and restored house -- front. The Sievers' proposal would significantly alter the way their house and parking would look from the street. Moreover, the proposed parking space would do nothing for the visual appearance of the street as a whole.

Larry and Michael Siever also establish

a parallel between our house, which has three units, and their plans which would create two completely separate units.

CONSTANTINE ALEXANDER: Excuse me, I don't mean to interrupt. I don't think it's germane for us to compare. And I know you're defending against a letter written to you. But the fact of the matter is you've got a variance 15 years ago. That was a different Board. Every -- I want to examine this case on the merits of this case. In other words, what's wrong with this case? We don't have to justify why your variance was different than theirs.

PATRICK HIGGONET: Okay.

CONSTANTINE ALEXANDER: Address yourself to what you object to about this project. That will save us sometime.

PATRICK HIGGONET: Okay. Well, well, let me describe why I don't think that there's a hardship here. Well, there's -- a

whole presentation was based on the -- the letter deals quite explicitly with what they wish to do and I thought that by responding to their letter I --

CONSTANTINE ALEXANDER: I see their letter. But I don't want to know why your property is different from theirs. That's not relevant to me.

PATRICK HIGGONET: I'll skip. I made a hardship case and I was granted that case and they should have one also. I will not then describe -- because of your remarks, I'll not describe why I think it was different.

The situation of the Sievers' is that a hardship case that they make is that they could make more money with the two apartment solution, with a one-family house. This is not a hardship as I understand what this word means. The Sievers' gain would be very large since they were allowed to build a ten-story

apartment house on the site of 38 Avon Street, but as I'm sure they concur, it is not a hardship that they cannot do so. The same principle applies to the proposal they put before you.

It is inaccurate to say that 38 Avon Street could not be sold as a single-family unit. At the right and fair price, it would be in my view it can be. Their description of the existing house is also unjustifiably pessimistic. They describe thusly the current house plan, which is similar to ours, since the two houses were designed by the same architect, as being excessively long because of the captured rooms that must be walked through to reach rooms behind. My response to this is, first, that we personally haven't found this to be much of a liability to the contrary. And the second is that this is the way the house was designed in 1854.

They also write that the value of a

large single-family house in lower Avon Street is greatly diminished by being a dense, multiunit area. That may or may not be the case, but it should be -- surely it cannot -- this cannot count as a reason for making it more dense. It just doesn't make more sense to me.

Again, this house could easily be sold as a one-family house. It would be of relevance here that the number of houses on Avon, Martin, Bowdoin and Grey Streets have recently been renovated as such in the last ten years.

So as regards to the architectural proposal that's before you, the structure of the bay has been moved aside, and I'm very grateful to that. But I think that the blocking of any windows in this house would destruct the equilibrium of the house. I might describe the house this way. First, our house has two bay windows, one on each

side. And then when you look at the house, the door is on the left on both houses. It's not an accident. The man designed it this way. And the idea of the bay window on the right-hand side side as I changed, that was quite an important thing because the house has a certain architectural equilibrium. And the door focussed your attention on the left and then the bay -- and sometimes the house was designed in that way. So the changes in the windows also to make one side of the house very visible and the other side to block the windows to my sense, okay, this also detracts from the equilibrium of the house and it doesn't improve the public appearance of the property.

Now here I have another paragraph that I'll skip about neighborly support which Mr. Siever's parents gave us and which would appear ungenerously refused to be returned. The difference is that everything that we did

improved the appearance of the house and it improved the appearance of the street. And this is not the case with this proposal which moves the parking from the back to the front, which changes the windows and which originally changes the bay window.

Oh, here I have a learned historical footnote. I don't know if you want it.

CONSTANTINE ALEXANDER: Go ahead.

PATRICK HIGGONET: Okay. We all know about Tocqueville and democracy in America. Tocqueville was a French aristocrat and a great snob. He did not like Andrew Jackson and he did not like the rise of the common man. He was very sympathetic to anti-Jacksonian which he thought the more elegant. And the one weak home -- and one the weak homes he visited when he toured Cambridge, was as it happens was his masterpiece of this architect, which then belonged to Jared Sparks, which for whom

Sparks Street is named. And just today the house of the Harvard University preacher. So I think it matters that the work of the architect that designed 32 and 38 Avon Street was not just seen by Tocqueville, but by its natural elegance, colored a part of his view of American life as it was in 1831, nearly two centuries ago.

So it's, I think it would be a great shame to ignore Saunders' contribution to the architecture of the city. And this with regard also to any building he designed, including 38 Sparks Street as well.

CONSTANTINE ALEXANDER: Thank you.

BRENDAN SULLIVAN: Can I see the dimensional form here?

LARRY SIEVER: Can I make a historical comment as well?

CONSTANTINE ALEXANDER: I'm sorry?

LARRY SIEVER: Can I make a historical comment as well since it's coming

to that? And of course I perfectly agree this is not about his variance versus my variance or granted what. Our point is that a number of variances have been granted. They were in the past. The reasons for them were not that dissimilar in my view, but I'm a lay person.

CONSTANTINE ALEXANDER: That's fine.

LARRY SIEVER: Things may have changed. But it is of interest that, and I do feel we've made a lot of changes -- some of the issues of windows, I think we can address because they were the request of the neighbors. But Alfred Romer who was the previous owner before my parents at a time when the Whiteheads lived there said that one site is (inaudible) 34 Avon Street is a house of the same period, this actually was a stable number 32. We were talking about two houses, 32 and the number house -- the house just

beyond corner of Martin which is the house you currently own.

PATRICK HIGGONET: 32 and 34 -- 32 and 38 were at one point adjoining houses.

LARRY SIEVER: Right. I'm just saying so it's referring to that house. But they say it is quite possible that the house at 38 Avon Street at one time had a covered front porch as you suggest. However, the front had been badly transmogrified when I bought it when the second floor extension out in front, and I cannot be at all sure of the regional situation. My only point is time has passed, changes were made, changes were -- there is a myth that there's some perfectly preserved structure that someone is doing, and no one's -- I think the point is that we have made attempts to be true to the spirit of the historic renovation. And we fully concede. You can argue about this hundred dollars, or that hundred dollars,

that's not the point of the decision I make. The point is we want the variance to reserve an option, the only one we consider viable to preserve the historical significance, and we think we can support that but that's clearly up to the Board.

CONSTANTINE ALEXANDER: Thank you. Thank you.

MUIREANN GLENMULLEN: I would like to make a small comment about the parking. The state of the garage and so forth in the back is such that the cars not parked invisibly at all. It would take a lot of money to renovate those. One of the major problems is looking at it as a homeowner, if you renovate that long, long driveway, the house doesn't spill on the garden without having to go over the driveway. Which is unappealing. But I also am feeling remarkable, the comparison what Mr. Higgonet is saying having restored and maintained the

front. Mark has found the front of that in as much as the Board by weighing his testimony I think it would be worth looking at, we're looking at putting the front back and it actually hasn't been interfered with, it's just deteriorated. We're talking about restoring it. But No. 32 Avon, in fact, has been, I didn't know the comment, badly transmogrified, and the picture here shows it and then the front the stairs, and it goes off to a second floor entrance and the very front of the house. So how do you, you know.

MARK BOYES-WATSON: What we tried to do, I think it is complex, this activity of renovating these old houses and yes, a 32 was Mr. Higgonet's house, it's a three-unit house. And in order to get -- you got -- all that means of egress and in and out that changes the natural exterior appearance. I think it was like this when Mr. Higgonet bought it. If you see there there's an

exterior stair that runs all the way up the left-hand side of the house that gives access to a door that sticks out of the side of the second floor. And it's -- I think it's sort of actually illustrates this sort of strange battle where you're balancing, you know, the economics, the underlying allowed number of units by zoning and these historic homes. What we tried to do in our renovation is actually not have those kind of features. Not the kind of features that says oh, my goodness, there's multiple units in here. So I think it actually illustrates that struggle. And it is a struggle. We struggle a lot with and try to -- and I think that is, I think there were, in terms of the parking, you know, I think if -- if it were true that most of the cars were buried in the back of the lot, you would be changing the historic nature of the street. That actually has not been long the case for the

reason that this petitioner has. In fact, the zoning even has been changed to reflect that. In fact, probably it might have conformed to the open space but the city has said as a priority, and if you take this in view of the amenities, the preamble to the zoning code the amenity to the structures, open space, overcrowding is not -- it's zoned for two. So we're not really thinking about that same way. But open space actually has been increased in Res B in the last ten years. And, again, the plan we're proposing with the movement of the parking allows us to conform to to that new, much greater open space requirement in Res B despite the structure. So you might say we're not -- we're allowed two. And then you said you're crowded, but we actually have, we have -- we meet the allowable open space. And the reason we do that, and I think this is interesting, is that our building, including its extended barn is

right on the property line of an abutter fully in support of this project.

LARRY SIEVER: The only other comment is if you took a drive -- I'll be one minute -- you would see there are many cars visible from the road. And in fact, in our driveway, even though it's a one driveway and a garage, because there's limitations to the garage, and you will see cars parked in this driveway. So it's not gonna fundamentally change the view from the street.

CONSTANTINE ALEXANDER: Doug.

DOUGLAS MYERS: I have a question -- I have questions with regard to the document circulated to us by the applicants entitled, "Comparable single-family sales." And I guess it will go into the file and be part of the record.

CONSTANTINE ALEXANDER: Yes, it will.

DOUGLAS MYERS: I don't know which

of the applicants --

MUIREANN GLENMULLEN: Yes, I distributed.

DOUGLAS MYERS: You distributed, but whoever wishes to answer these questions. My first question: Are you prepared to say which of these properties are and/or are not located in the zoning district in which 38 Avon Street is located? Can you provide us with that information now? That's question No. 1.

MARK BOYES-WATSON: You're asking if they're Res B basically?

DOUGLAS MYERS: In the district where 38 Avon Street is located.

MARK BOYES-WATSON: What we did is try to pick a the most approximate. You can do a much bigger spreadsheet. Grey Street is the next impacted, the abutters of the abutters --

DOUGLAS MYERS: My question is this

to focus your attention and to explain to the Board why I'm taking this time: The zoning ordinance as you do realize, before a structural aspect of a property to be considered as a basis for a variance, restructure the structural characteristic must especially affect such structure but not generally affect the zoning district. So, it's a particular relevance whether or not these properties are or are not located in the zoning district as such.

Secondly, I would like to know if you go through this list in response to my questions, during the course of the evening, whether these, any or all of these or how many of the properties are single-family homes which have been, quote, unquote, renovated as some of them have to multiunit? Are any of them single-family renovated multiunit? Or are they all single-family renovated and sold as single-family? It seems to me that's

highly relevant to our discussion and to the requirements of the zoning ordinance.

And thirdly, it would be helpful I think along the same lines, or by the same token, if you can indicate, put your finger on the properties in the zoning district that where there's etched or where you can tell us that they are single-family properties that have been renovated to multiunit? And those are criteria that I think would be extremely helpful to our analysis under the ordinance. And as I look at this list, I'm eager to find out more. And the list as its constructed, doesn't provide that information.

BRENDAN SULLIVAN: I guess the other part of that equation to a computer is to be how many of those are 500 square foot houses, to get a comparable --

DOUGLAS MYERS: Absolutely.
That's what I'm -- that's what the question is aimed at.

LARRY SIEVER: My understanding, this is a single-family by definition.

MARK BOYES-WATSON: No, some are attached. Some are precisely of the kind -- for instance, 17 -- projects which I was involved. 17 Lancaster Street was a big, big building. It was an old rectory actually. And we got variances to add -- it was complicated because again, it -- because it was a rectory. It didn't have any units in it. So 5.26 kicked in and you had to add three. And I guess it was probably a one. So that's -- the 17 Lancaster is exactly a parallel property. Renovated to a very, very high --

DOUGLAS MYERS: Is that in the zoning district?

MARK BOYES-WATSON: Yes. Res B down the street from here, 21. So there's a mixture here because we spoke -- partly in our comparisons we have singles and attached.

So, but to go to another -- I'm actually not -- I'm familiar with that one because I was involved as an architect. And it says on here 160 Upland Road. Upland Road is the road that is one block beyond. So it's in the same district. It's not necessarily -- you could argue why -- why these are so closely geographically. We try to keep -- Cambridge varies a lot by neighborhood, so the zoning district is way bigger than necessarily the comparables would be for the real estate agent. North Cambridge in Res B --

DOUGLAS MYERS: My concern is whether or not it's in the exact same zoning district that 38 Avon Street is it located?

MARK BOYES-WATSON: Yeah, I think the only property here that is not in Res B is 1717 Cambridge Street.

CONSTANTINE ALEXANDER: The fact that comparables -- that you present to us are

not necessarily -- I think there is -- they're subject to attack.

MARK BOYES-WATSON: The figures.

CONSTANTINE ALEXANDER: I don't think you present them as iron-clad. Give the Board a sense of the comparables. But I think there are -- I wouldn't take them at face value which is I what think your point is. There are a lot of holes.

MUIREANN GLENMULLEN: They did come from Hammond and they were designed to -- let me just say. Three of them are renovated singles in the district. I can tell you. Is that what you like?

CONSTANTINE ALEXANDER: That's not my problem and it's yours. We have this presented by Hammond. I have a letter in the file from Hammond. They're a brokerage firm looking to sell properties. Two properties to sell, easier to sell. They've got a conflict of interest. I give them whatever

weight. That's me personally. I'm being too cynical. But I don't think I'm going to be persuaded by what Hammond tells me.

MUIREANN GLENMULLEN: And this is actual data.

CONSTANTINE ALEXANDER: I know it's data. Figures lie, liars figure, you know.

MARK BOYES-WATSON: We actually -- generally as you know, don't get into the figures because they are lethal. It's a labyrinth. And I probably shouldn't have handed it out, and since I don't want you -- I don't want also to because we don't often -- it's sort of clear in this case, we don't often get ready because they're quagmire. So I guess it's an indulgence, but to have the sense that this basic dichotomy that's expressed in these numbers rather than the specificity speaks though to this issue that the Board has in front of them.

CONSTANTINE ALEXANDER: Doug,

unless you have any questions, I think we're repeating ourselves.

DOUGLAS MYERS: No.

CONSTANTINE ALEXANDER: Slater, go ahead.

SLATER ANDERSON: My issue at our first hearing, and we've talked a lot about the issue of hardship here, and I respect Mr. Siever and his brother's situation received financial hardship with dealing with a delapidated yet historic structure in a high value marketplace being out of, you know, out of town owners. The bottom line for me, I think, is I would buy into your hardship. My concern is that you get this variance and next week you sell it to these guys and you're on your way and you're gone, and the hardship really -- I think for the hardship to have standing to me, it would need to carry through to the completion of the project, and that would sort of be a

condition. And I don't know if we have the ability to do that.

CONSTANTINE ALEXANDER: No.

SLATER ANDERSON: But that's sort of my concern and the slippery slope that I talked about last time.

LARRY SIEVER: We can address those issues if you want if they're relevant.

CONSTANTINE ALEXANDER: Sure.
Briefly.

LARRY SIEVER: First, I mean, the issue of Hammond, we did consult Hammond initially before. Before we thought about this plan simply because they are one of the biggest relators in the area. Maybe I'm wrong, we did look around. We did consult other realtors. We didn't have any prior contract nor do we have a contract with Hammond. We picked them because they are the biggest relator in the area. And we could have picked any others. And the fact is as

far as I'm concerned, all of these figures are an attempt to address in quantitative terms what a Board wants to see of what is involved in here, vis-a-vis a hardship. But there is no absolute standard.

Now, as far as going forward, the fact is no, we are not selling it. We will maintain ownership. We've taken out a loan so that they can accomplish the renovation if we go forward with this plan. But we will remain owners until whatever disposition we make and we sell it. And at that point we do sell it because we're both out of town and it's --

SLATER ANDERSON: It's with respect to that.

LARRY SIEVER: It's our parents' legacy and it's our inheritance. And that's what the hardship and all these issues --

CONSTANTINE ALEXANDER: Dilemma to me is we've been debating for a half hour the

hardship, and numbers are being thrown around and you're throwing numbers around, I accept in good faith. I have no way of independently verifying those, No. 1. So we're at a little bit of a loss. We don't have our own experts to come in and challenge the numbers or to agree on the numbers. I'm not saying they're wrong. That's No. 1.

No. 2 is hardship. When you're tied to numbers is temporal. Yes, maybe you -- maybe you can't profitably rehabilitate this structure today, but maybe you can two years from now. And is that, at some point in time and maybe not in the distant future this will not be a hardship to -- the hardship you're presenting today will not necessarily be there. Real estate values fluctuate and it's a little bit of a dilemma for me, I'm not sure how I'm going to come out of this. The -- it's hardship today that I can't independently verify. And then concluding

that there is a hardship, that should allow the zoning to change permanently. And I --

LARRY SIEVER: Can I --

CONSTANTINE ALEXANDER: No, this is not a debate. You've had your opportunity to talk and I think it's time for us to stop the talking unless -- except by members of the Board, okay? You've had your opportunity. I'd like to read into the record the letters that we have in here that I haven't read yet, and then we should go solicit comments from members of the Board.

And there are two letters -- or there's three, counting the letter from Hammond which goes mainly to the kind of matters that you presented to the hearing, the economics renovating this to the structure. This is dated November 30, 2009 prepared by Christian Jones will be made part of the record, but because everything in the letter has been covered, I don't propose to take the time to

read a long two-page letter.

I will read, however, two letters that we have from neighbors which I give a great deal of credence to. One is from a Kincade Webb, W-e-b-b addressed to our Board. It's actually an e-mail. The owner of 23 Grey Street, unit B. Although the person has listed a home address Newburyport. "I'm a neighbor of 38 Avon Street and I understand that the owners have made changes to the plans at 38 Avon Street as per request from the city. I also support the revised plans. I am pleased that the barn structure at the end of the house will be preserved and will be kept looking like a barn. I hope the Siever brothers get approval to go ahead and do the changes per plans. Once done, the building will definitely enhance the neighborhood."

The other letter is from Mr. Whitehead I believe it is. I'll find it in a second. Yes. It's a letter from George Whitehead at

42 Avon Street. And the letter is addressed to -- again an e-mail -- addressed to the Board. "I am writing again in support of case 9849, the plans submitted by Michael and Larry Siever for a variance at 38 Avon Street. My wife Elizabeth Whitehead and I are the neighbors abutting to the north at 42 Avon Street and have lived here for about 18 years. In our previous letter my wife and I note that the house at 38 Avon fits nicely onto its narrow lot to the benefit of the neighbors. The proposed design will keep the footprint and bulk of the existing structure while increasing the living space somewhat and allowing for two units within the same envelope. Your Board has granted a number of variances on Avon Street in the years since I moved back here into a house which has been in my family since the late 1950s. In the mid-1990s the Higgonets at 32 Avon renovated extensively and added a unit at the rear.

John Kennedy did an even more completely renovating of the house at 27-29 Avon and created three units from two. More recently in case No. 9118 my wife and I received permission to add four area and convert 42-44 Avon to three units from two as well. In our case, I think we were doing something very similar to what the Sievers propose at 38 Avon. We were repairing a house which has historic value and fits well into the streetscape in a way which kept the look of the house intact. At the same time we adapted it to function well in the present day. We were granted relief and that allowed us to get the house the attention it needed without making major changes to its impact on the street. I think the current plan for 38 Avon will have the same effect. Finally, I would like to say that it is possible that the owners can make the needed repairs and alterations to 38 Avon Street in an

economical manner by right if they were to demolish part or all of the current structure. This would be a serious loss for our street and could not have been the intent of the current zoning. I hope the BZA will approve this project."

And there were other letters in support. I think all in support with regard to the original plans which were read into the record at the last hearing. They don't need to be repeated.

I think at this point I will open the comments to members of the Board or if they wish go to the vote. Anybody wish to speak?

DOUGLAS MYERS: All right, in the absence.

CONSTANTINE ALEXANDER: No one has to.

DOUGLAS MYERS: I understand. I always respect and am eager to hear the opinion of fellow Board members. I've

decided in my mind, pending and being influenced of other members of the Board, that -- to vote in favor. And, however, I wish to make it clear that no part of my decision has anything to do with hardship based from the economic value of the property. The evaluations of the property, the fluctuations of the real estate market, I believe that -- I believe that it is clear that we certainly in the context of this case that for reasons stated by other Board members, we should not consider those as bearing on hardship. I think hardship has to be something that specifically relates to the land or the structure that virtually, virtually renders the property unmarketable or saleable only at a price that is appreciable below any concept of a fair market value. So the question of profitability, relative profitability, plus the temporal element raised by the Chair are

to me completely persuasive and not going ahead on the ground. The ground that is persuasive to me, although it's close, but I am ultimately persuaded that only basis for a hardship permitted under the ordinance is the role of the unique qualities of this building in a structure. And I believe were it to be for structural hardship to apply, we have evidence of the functional obsolescence of the house. We have evidence of its bulk, its archness, its delapidated condition. And we also have evidence -- recently, most recently in the form of the letter, in the form of abutter that was heard fragmentarily throughout the evening that really these qualities do affect the structure, but don't generally affect the zoning district. And I think it's highly persuasive to me that in the immediate vicinity of this house, any number of houses have gone through a similar process, much less one that has been

articulated so as the applicant's proposal and received the approval and recommendation of the Historical Commission. So, it's close. I mean, it's not as if this variance is introducing a new type of multiunit building in a stable, in an area where there is a stable neighborhood. This is an evolving neighborhood, and I think there's considerable evidence in the record that indicates that the types of conversions, if you will, or the types of variances are frequent in this area. And that, therefore, to change from single-family to a modest historically sound multiunit is something that does affect the structure and does not generally affect the zoning district.

CONSTANTINE ALEXANDER: Thank you, Doug.

DOUGLAS MYERS: I'm in favor.

BRENDAN SULLIVAN: That makes sense. Well said and it makes sense. And I

think that what persuaded me was Charlie Sullivan saying he was more than eager in the preservation of this structure.

CONSTANTINE ALEXANDER: I have the exact same view, but very well said which is very slight correction. I think it's only fair to say that Mr. Sullivan gave his personal opinion and it wasn't the opinion of the Cambridge Historical. They didn't meet.

DOUGLAS MYERS: I stand corrected.

CONSTANTINE ALEXANDER: But I also agree with everything else you said.

SLATER ANDERSON: I would concur. I think in the end a literal interpretation of the zoning could result in the demolition of this house which I think would be a loss for the city. Mr. Siever has found himself in a circumstance, a loss of your mother, that you now have this house with your brother. And I think, you know, the Board has an opportunity here to act in a way that

preserves this structure. And I think your plans are thoughtful. In the changes you've made are even more consistent with the historic character of the house. So I'm persuaded as well to vote in favor.

THOMAS SCOTT: I mean one of the issues, we sent you away the last time was to get the opinion of the Historical Board, and you came back and you showed us that you made concessions and corrections and modifications to retain more of the historical value of the house, and I think that is commendable. I think you've done that. I think, you know, the parking issue or where the cars are located on the lot, I think you made a good point, Muireann, earlier that having the cars a little bit forward so the yard becomes more of a living area, that's accessible to the house I think is a very important one. And I think the monetary issue, whether it works financially

for you or not is not the purview of our Board. And I think what you've, what you presented tonight is definitely something I could be in favor of.

BRENDAN SULLIVAN: Except when the petitioner comes in and says we have a hardship because it doesn't work we only need that. Well, what they're talking about is dollars and cents at that point. It's not a practical hardship. It's not impossible. It's not, you know, whatever it may be. Zoning is preventing us -- the zoning ordinance is preventing us from renovating it or something. It's dollars and cents. And so the exercise that you've gone through, I mean I appreciate it and yes, we can discuss this further, but I think that it is an attempt to answer my question and also your -- it addresses the hardship in the dollars and cents terms.

CONSTANTINE ALEXANDER: Since the

Chair always has the chance to have the last word, I only add that I think -- I am very sensitive as Mr. Sullivan has annunciated at the last hearing about petitioners coming before us and asking us to increase the value of their property by giving zoning relief. That's not what we're here for. That's not what this project is about. This project is about preserving an historic building and that's the point that Doug has made. And that's -- I would not have been persuaded by the numbers that were thrown at us tonight. I don't mean thrown at us, presented to us. I think we're ready for a motion.

The Chair moves that a variance be granted to the petitioner to have the relief being sought on the grounds that a literal enforcement of the provisions of this ordinance -- on the basis of the following findings be made by the Board:

First that a literal enforcement of the

provisions of this ordinance would involve a substantial hardship, financial or otherwise to the petitioner. This hardship not being financial necessarily at least in view of the all members of the Board, but rather because of the nature of the structure itself, its historical significance to the city, and the limitations that are presented to the petitioner should -- or any owner of the property should he or she want to preserve the historical nature of the structure and still have a viable real estate, non-economically viable piece of real estate.

The hardship is owing to the circumstances relating to basically the shape of the structure. And especially affect the structure. The shape being the nature, the historical, unique, the historical nature of the structure as noted by Mr. Sullivan in his letter to the Board. And it's a structure that is not replicated

in the zoning district generally.

And that subject to the conditions that we're going to impose as part of this relief, we can grant relief without substantial detriment to the public good or nullifying or substantially derogate from this ordinance.

In fact, what we would be doing is preserving an historically significant structure for the city in as close to its current form as possible.

We will be providing additional housing for the citizens of the Commonwealth.

The plans that are being proposed have met the personal approval of Mr. Sullivan whose opinion we greatly respect. And that for the most part, but not entirely, for the most part this project has the support of the neighbors.

This variance would be granted on the condition that the work proceed in accordance with the plans submitted by the petitioner

prepared by Boyes-Watson Architects dated 11/30/09. They're numbered A101, A301, A302, A401, A402, A403.

And you understand, I think you do understand, that these are the plans. No changes -- particularly with regard to architectural features, which reminds me further that in doing repair work and work that's not necessarily reflected on these plans, that the current appearance of the structure be preserved to the maximum extent possible. So that the architectural features of the structure are not in any way, materially changed from what they are now. Yes.

MARK BOYES-WATSON: And sort of enforceable standard for that?

CONSTANTINE ALEXANDER: I don't have any plans to tie it to.

MARK BOYES-WATSON: But you could send me back for the administrative approval

of Charlie Sullivan. It just gives the standard.

CONSTANTINE ALEXANDER: We can't do that. I and I don't think Mr. Sullivan would like us to give him the authority without him being here accepting it. I don't think it works.

MARK BOYES-WATSON: Could we refer to his letter then? Saying that the elements -- well, I know it's --

CONSTANTINE ALEXANDER: We can. The letter was just pretty much general.

MARK BOYES-WATSON: This is my concern in a renovation of this kind, things happen. You know, I don't want to be arguing about this is the wrong bracket. So, you know, if we can just characterize it in a way.

CONSTANTINE ALEXANDER: Maximum feasible subject to the natural conditions of the structure.

MARK BOYES-WATSON: Okay.

PATRICK HIGGONET: The issue of soffits was brought up.

DOUGLAS MYERS: There were two specific representations about flush clapboards and the bracket and the soffit. That was --

CONSTANTINE ALEXANDER: You want to add that?

DOUGLAS MYERS: I only mentioned it simply because they were made and they appeared to be important.

CONSTANTINE ALEXANDER: Okay. Let's just add the further condition, why don't you give it.

DOUGLAS MYERS: That the flush clapboards be preserved and that the bracketing of the soffit line be preserved.

MARK BOYES-WATSON: I think actually the appearance of the flush be preserved because they're in terrible condition.

CONSTANTINE ALEXANDER: The Chair would note that the plans that I referred to as the condition of granting the variance, the first page of which has been initialed by the Chair.

All those at this point in favor of granting the variance, please sigh "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Sullivan, Anderson, Myers, Scott.)

(A discussion was held
off the record.)

(9:10 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Slater Anderson, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9815, 100 Cambridge Side Place. Is there anyone here on that matter?

KEVIN DUGGAN: Hi, how are you? Kevin Duggan from Metro Sign and Awning.

The case was heard earlier a few months back, and the recommendation of the Board, they asked me to come back with a new plans with elevations and lengths of building and a proportion of what the proposed sign would look like on the building. I dropped off two sets of plans to -- I have extra sets if the Board would like them.

CONSTANTINE ALEXANDER: I got a problem with the plans I must say. Why didn't you -- you're seeking relief for two signs. You only have one sign on these

plans.

KEVIN DUGGAN: I'm seeking relief for one sign.

CONSTANTINE ALEXANDER: Last time we turned you down for two signs. The one over the front and the blade sign that you just pointed out.

KEVIN DUGGAN: That's --

CONSTANTINE ALEXANDER: That's the one you're here for relief for, two variances and the two signs interact with one another and you only show one sign.

KEVIN DUGGAN: Where's the other sign?

CONSTANTINE ALEXANDER: You're the petitioner. Unless you've withdrawn that sign which I doubt. Les Barber has turned you down for two different signs. One over the front door which had modest relief relatively speaking, and this very large sign which is about twice as big as our zoning

requires.

KEVIN DUGGAN: Well, if we can just address it to this sign.

CONSTANTINE ALEXANDER: Well, I guess we're going to have to. Those are the only plans. I am disappointed because I can't get the overall visual impact of the two signs you want.

KEVIN DUGGAN: I don't believe there's another blade sign. That's the only blade sign.

CONSTANTINE ALEXANDER: I have Mr. Barber's -- you have two applications. The application of two signs with Les Barber. One is -- extends 12 inches from the building thereto.

KEVIN DUGGAN: We discussed this.

CONSTANTINE ALEXANDER: We discussed it but we didn't grant relief.

KEVIN DUGGAN: We said we were going to conform to the less.

CONSTANTINE ALEXANDER: So you're withdrawing that?

KEVIN DUGGAN: We told you we were going to conform to that.

CONSTANTINE ALEXANDER: I'm sorry, I think I've forgotten that.

KEVIN DUGGAN: We're going to conform to the 12 inch rule whatever it was.

CONSTANTINE ALEXANDER: So you're only seeking relief for one sign?

KEVIN DUGGAN: That's right.

CONSTANTINE ALEXANDER: That's right. One of the things you heard from the Board at the last hearing was the sign was too big. And one of the reasons we wanted to see these photo simulations was to --

KEVIN DUGGAN: Correct.

CONSTANTINE ALEXANDER: -- confirm our impressions. Have you decided to reduce the size of the sign?

KEVIN DUGGAN: We want to show you

the size of the sign. We suggested that we give the proposed sign with the elevation so we can show the proportion to the building. And that's what we're trying to -- I think you have -- do you have the photos?

CONSTANTINE ALEXANDER: We have them in the file.

BRENDAN SULLIVAN: I've already reviewed them.

CONSTANTINE ALEXANDER: So have I.

KEVIN DUGGAN: Okay. So what we tried to do is show you the elevation. The elevation is 58 feet, and the length of the building about 120 feet. The sign itself is 14 feet.

CONSTANTINE ALEXANDER: And there will be a sign over the front door? I want to make that very clear.

KEVIN DUGGAN: Yes, but we're going to go --

CONSTANTINE ALEXANDER: It's going

to be a conforming sign?

KEVIN DUGGAN: Yes.

CONSTANTINE ALEXANDER: So you're looking for a second sign?

KEVIN DUGGAN: I'm looking for a sign.

CONSTANTINE ALEXANDER: I understand. That's the second sign identifying the restaurant in that space.

KEVIN DUGGAN: Yeah, I mean a separate wall actually.

CONSTANTINE ALEXANDER: I know it's a separate wall.

KEVIN DUGGAN: Okay. At any time -- I thought we had finalized that. This sign is roughly 14 feet tall and it's widened length is 40 inches, but for the most part it's 30 inches. At any rate, the square footage of that sign would be about 57 square feet in height. The square footage of the entire facade is about 7100 square feet. So

this is less than one percent.

CONSTANTINE ALEXANDER: What is the size of that sign relative to what the Zoning Board -- I think the maximum is 13 square feet?

KEVIN DUGGAN: 13 square feet.

CONSTANTINE ALEXANDER: 13 square feet. And you're looking at how many square feet?

KEVIN DUGGAN: If you took it at the fattest width and tallest height.

CONSTANTINE ALEXANDER: That's 48 inches, four feet times 14 feet is 56 -- more than about four and a half times what the --

KEVIN DUGGAN: And, again, the size of the building --

CONSTANTINE ALEXANDER: I understand the size of the building. I want to get to the size of the sign relative to what our zoning law allows. You're looking for a sign four and a half times for what zoning

permits. Your justification for it's such a building, a big wall, relatively speaking to the size it gets swallowed up.

KEVIN DUGGAN: The other part would be a safety concern. If you don't have a sign that can be seen, I'm just -- from that busy street and they're looking for -- they'll be --

CONSTANTINE ALEXANDER: Tell me something. Restaurants around the city and around the whole area generally have one sign over the front door. They don't necessarily have big, protruding signs. Why does this restaurant need a big protruding sign on that wall and a wall that's completely clean right now? No. 1.

No. 2, if other occupants of that structure want to have signs, are we setting a precedent?

KEVIN DUGGAN: This is the only part of that mall that doesn't have an interior

entrance.

CONSTANTINE ALEXANDER: What does that have to do with the sign on that side?

KEVIN DUGGAN: What I'm saying, part of the need of the business is the sign on the outside for walking and for cars. I thought when we left it the last time, we had a meeting that the sign wasn't the problem. I thought the size of the sign was the problem. If there's another problem, I'm not aware of it.

CONSTANTINE ALEXANDER: You could do a sign as a matter of right if it's 13 square feet.

KEVIN DUGGAN: Let me show you one. We also did a make-up of one that's seven feet. And the problem with that is -- I think I left it with you, Mr. Heuer. Do you have the seven foot one? Did I give you the seven foot sign? I let you take the seven foot -- I -- I'm sorry. Here's the problem with the seven foot sign. You can't even

find it.

CONSTANTINE ALEXANDER: But there would be -- okay. I don't want to belabor this. Yes, you're right, it's very hard to see. But there is a very big sign on the front door.

KEVIN DUGGAN: It's only seen from one direction.

CONSTANTINE ALEXANDER: That's true of all restaurants, you see a sign from one direction.

KEVIN DUGGAN: Not on a corner block like this. Most restaurants on corner blocks have signs on both signs.

CONSTANTINE ALEXANDER: Okay. I'm sorry.

KEVIN DUGGAN: Most businesses --

CONSTANTINE ALEXANDER: All right. I'm --

KEVIN DUGGAN: I thought the issue was the size of the sign. The Board asked me

to come back, if you recall, and show the proportions of the proposed sign and why you should allow a sign that size.

CONSTANTINE ALEXANDER: That's right.

KEVIN DUGGAN: And that's what I thought the sayings was. If I was mistaken, I'm sorry. But I thought you made this a lot of times you do that. And you also mentioned that -- well --

CONSTANTINE ALEXANDER: Okay.

KEVIN DUGGAN: I have some other views -- and well, it just gives you the proportion of the building. Other signage on the building, another size, if you look on the other side although they're not -- although they're not projecting, there are much larger signs.

CONSTANTINE ALEXANDER: They're not projected.

KEVIN DUGGAN: They're not

projected. You know, I was under the understanding, Mr. Chairman --

CONSTANTINE ALEXANDER: No, no, it was exactly what we said. Get a sense of the size of the sign you want relative to the whole structure. You made that point clear and you did that.

KEVIN DUGGAN: And as far as that front sign, that small front sign down to -- you threw me a curve ball there. We said we were going to conform to that and we were just down to one sign. Do you remember that now?

CONSTANTINE ALEXANDER: It makes no difference whether I remember or not. You said you're withdrawing.

KEVIN DUGGAN: We did that last time at the open meeting. We have the notes and we would probably find that.

CONSTANTINE ALEXANDER: Tonight we're looking for one sign?

KEVIN DUGGAN: We're looking for one sign, correct.

CONSTANTINE ALEXANDER: Anybody have any questions at this point from members of the Board?

TIM HUGHES: I don't have any questions, no.

CONSTANTINE ALEXANDER: Okay.

Is there anybody from the audience who wishes to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: No one wishes to be heard. The file appears to have no letters one way or another. So I think it's up for comments by members of the Board.

BRENDAN SULLIVAN: It's going to come out. I can see it.

TAD HEUER: So what if -- so Mr. Hughes and I were just discussing the phrase China Bistro.

KEVIN DUGGAN: Yeah.

TAD HEUER: Mr. Hughes may not think that it's an accurate depiction of the purveyance of the establishment, but my question, I think his as well, what if we removed China Bistro? You save about 14 square feet by cutting that off. You have a sign that says what it is, as opposed to --

CONSTANTINE ALEXANDER:
Advertising.

TAD HEUER: -- advertising. It identifies the property rather than saying -- identifies and promoting the property. You're still, you know, you're still 45 square feet, and I think I'm somewhat convinced having seen the by right sign, that if you're going to have something there, especially coming in from Land Boulevard, I think I would have had something from Land Boulevard I couldn't see a sign behind this 20 foot tree, but the other larger sign I would see from behind the 20 foot tree. I'm

not sure of the 20 foot tree at this time of year, it wouldn't matter what size sign you had. But the notion of cutting down the sign to a size that's while still large, again, appropriate perhaps the size of the building that just says PF Chang's is that something that --

KEVIN DUGGAN: I don't know -- I do have one other rendition here. I was hoping -- I'm trying to be prepared.

CONSTANTINE ALEXANDER: That's fine. I'm laughing. You're well prepared.

KEVIN DUGGAN: I have an 11 foot sign, but then again that's lost, too.

CONSTANTINE ALEXANDER: Our sign consultant -- I'll pass it down.

KEVIN DUGGAN: But it's -- I think there again, it gets kind of lost with the seven foot sign.

BRENDAN SULLIVAN: I know where the Cheesecake Factory is.

CONSTANTINE ALEXANDER: That's my problem. I may be dead wrong.

BRENDAN SULLIVAN: My problem is, and I think we touched on it. If we were to allow anything close to this, that then all the other merchants in that mall are going to come marching down and they're going to request something similar.

CONSTANTINE ALEXANDER: And it will look like JFK Street.

BRENDAN SULLIVAN: And it will wind up like JFK Street.

SLATER ANDERSON: I see Sycamore Place.

BRENDAN SULLIVAN: Under Article 171622B, the area of the sign shall not exceed 13 square feet. The number of signs for a ground floor establishment. The height of the sign no larger than -- higher than 20 feet provided is below the sill line of the second floor windows or the lowest point of the roof,

whichever is less, which obviously would be the second floor window. Any illumination would be natural or external lighting. And that's the requirements of the ordinance.

CONSTANTINE ALEXANDER: The sign doesn't --

BRENDAN SULLIVAN: And this doesn't even come close.

KEVIN DUGGAN: You know this elevation and this length of this building don't you think it has an affect of what kind of sign can be put there?

CONSTANTINE ALEXANDER: You know what you're missing, sir, you're assuming you have a right to have a sign --

KEVIN DUGGAN: I'm not saying that.

CONSTANTINE ALEXANDER: And if you do, then the sign you're proposing makes a lot of sense.

KEVIN DUGGAN: Well, I could put a projection sign up; is that correct?

BRENDAN SULLIVAN: You can provided that you comply with --

KEVIN DUGGAN: What I'm trying to say, that projection sign that we'd be allowed to put up, you wouldn't even see.

CONSTANTINE ALEXANDER: Then you wouldn't put it up.

KEVIN DUGGAN: But the whole purpose is there, and like I say, part of it is safety so that people can see that's where the restaurant is. And like I say, this restaurant, this particular part of the mall doesn't have any inside access. It's not like it has -- well, I understand but it's part of the mall, people go there.

CONSTANTINE ALEXANDER: I know that. But I don't see the relationship between a protruding large sign on Land Boulevard to the fact that there's --

KEVIN DUGGAN: Somebody knows it's at the mall and they can't find it and they're

driving and they can see it when they're driving in, that's my point.

CONSTANTINE ALEXANDER: I don't mean to bicker to you.

BRENDAN SULLIVAN: I don't want to turn Land Boulevard into JFK Street.

KEVIN DUGGAN: Pardon me?

BRENDAN SULLIVAN: I don't want to turn Land Boulevard in JFK Street or Route 1. People want to sell big signs. Where I'm concerned is the aesthetics of the building and it's just going to junk it all up.

CONSTANTINE ALEXANDER: Any other comments?

TIM HUGHES: Well, other than the fact that it's huge, no.

TAD HEUER: And from the fact that if you look at that south side facade, you seem to have failed in that regard, right? There's all kinds of different --

BRENDAN SULLIVAN: If you go to

O-Brien Highway back to Boston, and I've done it a couple of nights, I almost got killed because I've slowed down. You can't even see the building to be quite honest with you. And that's one of the arguments. They need identification from O-Brien Highway because of all the trees down at that end. Would you see a 14 foot sign? Maybe you would see some kind of garish coloring. You wouldn't be able to read it. There's PF Chang or something. And this sign, as I stated before, and I see no reason to change my opinion is, you know, it's out of character, out of place. And I see no --

CONSTANTINE ALEXANDER: I think we're ready for a motion.

KEVIN DUGGAN: Can I show you a picture what it would look like?

BRENDAN SULLIVAN: That's for the theatre district not for Land Boulevard.

KEVIN DUGGAN: Would the Board be

entertained with a smaller sign? And how large a sign would the Board be willing to talk about?

CONSTANTINE ALEXANDER: You don't even have to ask the Board permission to put a 13 square foot sign up. If you can do a sign that's a matter of right, obviously you don't need permission from our Board. Anything you can't do as a matter of right, you have to come and get approval from this Board. And we're not -- I'm not in the business of giving advisory opinions of what we'll do and what we don't. We pass on specific plans that are brought before us. If you want to continue this case one more time and bring us back a different set of plans, that's your privilege. And I would be willing to entertain a continuance. Let me finish.

But you heard our message I hope loud and clear. We told you this message strangely last time that the sign was too big.

You came back with the same sign.

KEVIN DUGGAN: You asked me to.

CONSTANTINE ALEXANDER: We didn't ask you to come back with the same sign. We asked you to come back with photo simulations because we were very concerned about the size of the sign. Mr. Sullivan was as eloquent as he is tonight about the fact that the sign is too big. But you came back -- you chose to come back with the very same sign with photo simulations. I don't want to debate it. You want to seek a continuance and come back with another sign?

KEVIN DUGGAN: I'm looking for guidance. What would you like me to come back with, what size?

CONSTANTINE ALEXANDER: That, we're not going to give you that answer, sir.

KEVIN DUGGAN: I mean, if I come back with the seven foot sign, 11 foot sign, 14 foot sign.

CONSTANTINE ALEXANDER: You have two choices. You can build a sign that complies as a matter of right with the Zoning By-Law, in which case you don't have to put up with the five of us guys here, okay? Or you can come up with another sign at your -- and your client's choosing that doesn't comply with the Zoning By-Law and take your chances one more time as to whether our Board will approve it. I hope you got the message loud and clear that big signs, the size that you're looking at, don't really appeal to this Board or these five members.

KEVIN DUGGAN: Can I suggest that seven foot sign there, the 28 foot square foot sign is --

CONSTANTINE ALEXANDER: I'm not going to give you an answer yes or no. You decide what you want to do. Do you want to continue the case or not?

KEVIN DUGGAN: And if we don't

continue the case?

CONSTANTINE ALEXANDER: We'll take a vote tonight on the sign.

KEVIN DUGGAN: And no sign will be allowed for two years?

BRENDAN SULLIVAN: No, you can come back.

CONSTANTINE ALEXANDER: You can come back. There's a whole procedure in our Zoning By-Law. You come back with something materially different than what you presented. And maybe your 20 foot sign would meet that requirement. You would not be precluded to coming back within two years. You can come back with a different sign. You can't come back with a sign less five inches.

KEVIN DUGGAN: What about seven foot.

SLATER ANDERSON: You fail several tests for zoning. I sympathize the situation that this establishment it -- does

have the unique misfortune of not having internal access to the mall. But there's, you know, there aren't a lot of tests and you failed all the tests.

BRENDAN SULLIVAN: And I'm sure they're capable and have the opportunity to advertise to the mall, within the mall to the location.

CONSTANTINE ALEXANDER: What you really should be hearing, at least from several members of the Board, we don't like the idea of protruding blade signs on Land Boulevard because it is a start -- is a very slippery slope in terms of other merchants wanting their signs on that side of the building and it's going to destroy the streetscape. So you've got to, if you're hearing us, we're not keying on any sign, that we have to give permission along Land Boulevard. At least some of us are not keen on it. If you want to persuade us with a

completely different sign, feel free or you can build a sign as a -- that's permitted as a matter of right. You don't have to put up with the five us. That's where we are. The message is this is not a good place for a protruding sign that requires a variance. It can be what you want to do as a matter of right. But if you want a variance, it's an uphill battle with us. I'm not saying we'll grant it. We'll make that call and we'll give you the call when you make that call. I'm not giving you an advisory.

KEVIN DUGGAN: I'll ask for the continuance obviously.

CONSTANTINE ALEXANDER: Your choice. When can we continue the case to?

KEVIN DUGGAN: May I have those back?

TAD HEUER: Sure.

KEVIN DUGGAN: You can keep those.

SEAN O'GRADY: January 14th.

CONSTANTINE ALEXANDER: This is a case heard. I don't think Brendan can make the 14th.

SEAN O'GRADY: That's right. Then we're back out to February 11th.

BRENDAN SULLIVAN: I'm here then.

SLATER ANDERSON: I'm already booked on that night anyway.

TIM HUGHES: Apparently I am, too.

CONSTANTINE ALEXANDER: Before I make the motion, understand that I think you're going to come back with different plans presumably. If you do, those plans must be in our files by no later than five p.m. on the Monday before. And I would appreciate it if you have new plans, new photo simulations which show all of the signs, even the conforming signs, the chain signs and all the signs in the area so we have a complete visual picture, okay? But the only sign you're seeking relief for, I understand, is

the sign that you're debating tonight.

The Chair moves that this case be continued as a case heard until seven p.m. on February 11th on the condition that the sign -- and by the way, the sign may not, last time somebody went there the sign wasn't up. It came down again. Not your fault. Make sure that sign is up for 14 days before the 11th. And that sign should be modified to show the hearing date is now February 11th. Can you take a magic marker and cross out whatever is there now?

KEVIN DUGGAN: The sign is not there now?

SEAN O'GRADY: The sign is not there. I think you probably need to get another one. That's my guess. Come and see us.

CONSTANTINE ALEXANDER: Probably the workmen again.

On the condition that the sign be

modified to show the new hearing data. Waiver of time for a decision already being in our file. And on the condition that any revised plans, I'm putting it right in the motion, any revised plans that you're intending to present to us at the February 11th hearing be in our files no later than five p.m. on the Monday before. And it should be accompanied by photo simulations showing all of the signage on the building, including the conforming signs so we have a complete visual picture of what we're being asked to vote on. Okay?

KEVIN DUGGAN: Okay.

CONSTANTINE ALEXANDER: All those in favor, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Heuer, Anderson.)

(9:35 P.M.)

(Sitting Members: Constantine Alexander,
Tim Hughes, Brendan Sullivan, Thomas Scott,

Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9865, 137-139 Fifth Street. Is there anyone here on that matter? Please come forward.

Okay. Patiently you've been waiting for your case and you're here to seek a Special Permit.

JOSEPH SQUILLANTE: Yes.

CONSTANTINE ALEXANDER: The floor is yours. Identify yourself for the record.

JOSEPH SQUILLANTE: Joseph Squillante. I'm the owner of 137 Fifth Street.

WILLIAM WINDER: And I'm William Winder, W-i-n-d-e-r, architect. I'm at 11A Meacham Road, Cambridge.

CONSTANTINE ALEXANDER: Okay. You want to put a new roof on and relocate some windows?

WILLIAM WINDER: Yes, in a word.

CONSTANTINE ALEXANDER: Should we move to a motion?

WILLIAM WINDER: You have the plans. I, I think probably one of the confusing things is that there's actually two buildings on this site, and we will probably come back with the other building, but the building was -- the previous owner had it so full of stuff, I couldn't even get into the building until we clear them out.

CONSTANTINE ALEXANDER: I would say ordinarily I am very happy with that because I like to see the whole picture. Can you give us an idea of what you're going to do?

WILLIAM WINDER: That's what I wanted to do. The original building is on the right which is a one and a half story building and I don't know the exact footage, but it's maybe 160, 170 square feet. And we'd like to really keep that as it is. Some in the back. There's some porches. And I

think either eliminate and probably remove some of the square footage that's in the assessing department's blocks there and keep that as a single-family. Then around 1900 there was the three-family that's built on the left side. And that's which is what we're here for.

CONSTANTINE ALEXANDER: Do you envision, it's hard to at this point, a Special Permit for the other property as well.

WILLIAM WINDER: Well, it's sort of -- it probably would only relate to the windows.

CONSTANTINE ALEXANDER: Special Permit then?

WILLIAM WINDER: Yeah, so I really believe.

CONSTANTINE ALEXANDER: I'm not holding you to it.

WILLIAM WINDER: But I can't imagine

not having to come here to maybe either remove a window.

CONSTANTINE ALEXANDER: You're not planning to expand the size of the structure?

WILLIAM WINDER: No, not at all. And, you know, I think that would kick us into -- that would kick us into zoning.

CONSTANTINE ALEXANDER: Or a variance. It's non-conforming.

WILLIAM WINDER: Or a variance. Because --

CONSTANTINE ALEXANDER: Okay. Let's talk about this one.

WILLIAM WINDER: What I did is I put -- this not the most brilliant presentation in the world, but I put the two --

CONSTANTINE ALEXANDER: We're not the most brilliant people in the world either.

WILLIAM WINDER: What is proposed is

on top and what's existing. I didn't show in the front the street side -- staying exactly in terms of windows, staying exactly back with what's there or staying with that same size, same location, same number of windows. And then the other easy one is really the side, the left side of the building which is most of the brick, which is there's a porch in the back that was pretty tough -- I mean, the building is in a lot of --

CONSTANTINE ALEXANDER: It's not exactly in great shape.

WILLIAM WINDER: There was water coming down from -- there was a fire. The fire department did a great job of putting out the fire causing very little damage, but then they left the hole in the roof for 12 years. And so in that one area, you know, the -- basically that was just fine except that one area. It's really sad. But so what we're proposing there, and again, this one,

the side is within inches of the property line. It's maybe six inches. We're gonna get rid of -- we want to get rid of -- it would make sense to get rid of all those windows, and they're just, these were in the bathroom, these were in the stairwell.

And then I'll come to the porch. Right now, what was there was, you know, it was an original, I think it was an open porch that was ultimately closed in. And that's the way it looked. I left the -- I showed this with no sort of fenestration because it was covered with, you know, originally clapboards and then eventually I think it was -- at least two levels of siding over the top of that.

CONSTANTINE ALEXANDER: These relocated windows, some are going to be facing the structure you're going to be rehabbing?

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: But on the other side they also face a neighboring property? Have you spoken to the neighbors?

JOSEPH SQUILLANTE: Yeah.

CONSTANTINE ALEXANDER: And?

JOSEPH SQUILLANTE: They're okay.

CONSTANTINE ALEXANDER: It's better to have --

JOSEPH SQUILLANTE: They've actually been thanking me. They've come over and thanked me.

TAD HEUER: So in your application you said you're applying to enclose the porches. Are they already enclosed?

WILLIAM WINDER: They're enclosed. But we're enclosing them.

JOSEPH SQUILLANTE: We're actually not habitable, so now we want to add it to the square footage, habitable square footage.

WILLIAM WINDER: They're enclosed and roofed over all the way out.

CONSTANTINE ALEXANDER: They counted toward FAR because of the nature of how they were. And so you're not increasing your FAR but you're making them habitable?

WILLIAM WINDER: Exactly. And that's represented here on this side in order to eliminate everything that's right up against the distant building. So it will be continued one hour rated walls to code. And in the back we're proposing two windows in each floor as opposed to the strip windows that had been in the porch relative to construction. And I think the only one is difficult is that we're taking on the -- this is the facade on the right side of the building that faces the revival house. And that one we're eliminating this window here. We're making these three smaller windows here, and then we're moving, moving these windows over to be beside this window and just replacing these windows.

CONSTANTINE ALEXANDER: Now, all architects that come before us, these are your final plans?

WILLIAM WINDER: Yes.

CONSTANTINE ALEXANDER: Because if you modify them, you're going to have to come back.

WILLIAM WINDER: I know that.

CONSTANTINE ALEXANDER:
Understood?

WILLIAM WINDER: And I think the only thing we're adding, the roof is going back -- right now the roof -- actually, it pitches internally. So there's an internal roof drain which we're going to stay with, and then what we are doing is adding a skylight over the main stairway because we want to add light.

TAD HEUER: Is that where the hole is already?

JOSEPH SQUILLANTE: Exactly.

CONSTANTINE ALEXANDER: That's easy.

WILLIAM WINDER: It's really sad. I mean, when I went to the fire department, we are viewing the building and that's one of the issues we have. This was the major problem here. So we're -- I'm sorry, this is going to be one hour rated and then we're calling it to be sprinkled.

TAD HEUER: Is that the other reason you're looking to do hardy planning?

WILLIAM WINDER: Yeah. I think it made sense. It's a, you know, being a three-story building and maintenance wise and usually what -- I always fear happening is it will get the dread -- my wife calls it canning. You know vinyl siding. Which us architects we just love that stuff.

CONSTANTINE ALEXANDER: Questions from members of the Board?

Anyone here wishing to be heard?

(No response.)

CONSTANTINE ALEXANDER: No one wishes to be heard. I don't see any letters or other correspondence or anything else in the file.

Comments from members of the Board?

BRENDAN SULLIVAN: No.

CONSTANTINE ALEXANDER: All right. Time for a motion.

The Chair moves that we grant a variance to the petitioner --

BRENDAN SULLIVAN: Special Permit.

CONSTANTINE ALEXANDER: Special Permit to enclose an existing three-story roof porches and to add new windows on a non-conforming side.

The Special Permit would be granted on the basis of the following findings:

That you cannot meet the requirements of the ordinance because the structure is currently a non-conforming structure. A

severely damage form due to a fire. And so any relief, any modification of the windows requires a zoning relief.

That what you're proposing to do will not cause congestion, hazard or substantial change in established neighborhood character. That being so because of the nature of the work, mainly just relocating windows and putting a roof over porches that previously have been roofed.

That the continued operation or development of adjacent uses would not be adversely affected by the nature of the proposed use. And, in fact, the development of the adjacent uses will be enhanced due to the improvement of the nature of the property that you're planning to do.

That no nuisance or hazard would be created to the health, safety or welfare of the occupant or the citizens of the city. In that regard the petitioner has represented to

us that the neighbors who would be affected -- most affected by the relocation of the windows have not objected but have been shown the plans and have not objected to the relief being sought.

And that what you're prosing to do would not impair the integrity of the district or adjoining district. In fact, what we're doing is restoring to the housing stock some residential structures that right now are not being used.

The Special Permit would be granted on the condition that the work proceed in accordance with plans submitted by the petitioner prepared by William C. Winder, architect dated 11/4/2009. They are numbered A1, A2, A3, A4, A5, A6, A7, A8, A9, A10 and A11. The first page of which has been initialed by the Chair.

All those in favor of granting the Special Permit on the basis so moved, say

"Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in
favor. Special Permit granted.

Alexander, Hughes, Sullivan Scott,
Heuer.)

(9:45 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: Finally the Chair will call case No. 9866, 28 Sunset Road. Is there anyone here on that matter?

Okay, you're here for a bay window?

MICHAEL KIM: Yes.

CONSTANTINE ALEXANDER: You're seeking a variance. Identify yourself for the record, please.

MICHAEL KIM: Michael Kim, architect. Michael Kim Associates, Brookline, Massachusetts.

VICKI MISTACCO: Vickie Mistacco, 28 Sunset Road, homeowner.

MICHAEL KIM: Six square feet. Shall I go on?

CONSTANTINE ALEXANDER: The problem is I think you're already non-conforming.

MICHAEL KIM: Due to the area of the house.

CONSTANTINE ALEXANDER: Let me just read it into the record. Right now you have -- you're at 0.56 in a 0.5 district FAR. Which makes you a non-conforming structure and your six square feet will bring you to a magnificent 0.57 in a 0.5 district. And that's why you're here.

MICHAEL KIM: Yes.

CONSTANTINE ALEXANDER: And the purpose of the bay window is aesthetic.

MICHAEL KIM: To add more light to a relatively dark house. We do have a support from the neighbor who faces the bay window.

CONSTANTINE ALEXANDER: Is that in the file?

VICKI MISTACCO: You should have a copy.

CONSTANTINE ALEXANDER: Okay. I'd read it into the file.

Is there anyone here wishing to be heard on this matter?

(No response.)

CONSTANTINE ALEXANDER: No one wishes to be heard.

And we do have a letter presented by the petitioner. It's date December 1st. "To whom it may concern: We have not -- we have no objection to the installation of a bay window at No. 28 Sunset Road, Sincerely, Mr. and Mrs. Robert Cloron, C-l-o-r-o-n. 30 Sunset Road." Are they the people who are most affected by the bay window.

VICKI MISTACCO: Yes, they would be directly opposite.

CONSTANTINE ALEXANDER: Comments from members of the Board? Ready for a motion?

The Chair moves to grant the petitioner a variance to install a bay window on the basis that a literal enforcement of the

provisions in the ordinance would involve a substantial hardship to the petitioner. The hardship being that the structure is currently configured, not of sufficient light, particularly in the kitchen area where the proposed bay window will go. That the hardship is owing to circumstances relating to the -- basically the nature of the structure. It's a non-conforming structure.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent or purpose of the ordinance.

What the petitioner is seeking is a very modest relief in terms of a departure from our zoning. It is relief supported by the neighbor most affected by what is being sought, and that the relief would further enhance the inhabitability of the structure which is always a goal of our Zoning By-Law.

The relief would be granted, however, on the condition -- those are the findings that the Board will make. The variance will be granted on the condition that the work proceed in accordance with two pages of plans prepared by Michael Kim. They're dated October 26, 2009. They're numbered V1, V2, both of which have been initialed by the Chair.

All those in favor of granting the variance on the basis so proposed, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Variance granted.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

(9:50 P.M.)

(Sitting Members: Constantine Alexander, Tim Hughes, Brendan Sullivan, Thomas Scott, Tad Heuer.)

CONSTANTINE ALEXANDER: The Chair will call case No. 9867, 625 Massachusetts Avenue. Is there anyone here wishing to be heard on that matter?

(No response.)

CONSTANTINE ALEXANDER: The Chair is in receipt of a letter from James J. Rafferty, Esquire addressed to this Board dated December 3, 2009. "Please accept this correspondence as a request to continue the above-captioned case for December 3, 2009."

What date do we have available for this petition?

SEAN O'GRADY: January 14th.

CONSTANTINE ALEXANDER: It's a case not heard. We have a waiver of notice in the

file? This is a pick up sheet.

SEAN O'GRADY: I'll get a waiver.

TIM HUGHES: He's good for it.

CONSTANTINE ALEXANDER: He is.

Okay, the Chair moves to grant a continuance of this case until seven p.m. on January 14th on the condition that the petitioner sign a waiver of notice to the time to render a decision. And on the further condition that the sign on the premises required by our Zoning Ordinance be modified to reflect the new hearing date.

All those in favor of granting the continuance as proposed, say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Scott, Heuer.)

(At 9:55 p.m., the meeting adjourned.)

C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a
Certified Shorthand Reporter, the
undersigned Notary Public, certify that:

I am not related to any of the parties
in this matter by blood or marriage and that
I am in no way interested in the outcome of
this matter.

I further certify that the testimony
hereinbefore set forth is a true and accurate
transcription of my stenographic notes to the
best of my knowledge, skill and ability.

IN WITNESS WHEREOF, I have hereunto set
my hand this 14th day of Decemer 2009.

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:
April 23, 2015

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